

15th July 1930

**THE  
LEGISLATIVE ASSEMBLY DEBATES**

**(Official Report)**

**Volume IV**

*(7th July to 18th July, 1930)*

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**SEVENTH SESSION**

**OF THE**

**THIRD LEGISLATIVE ASSEMBLY**

**1930**

*Chamber Kamgaod.*



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1930**

## CORRIGENDA.

In the Legislative Assembly Debates, Simla Session, 1930—

(1) Vol. IV, No. 3, dated the 10th July, 1930—

(i) page 69, line 4 from the bottom, for "catchwards" read "catchwords".

(ii) page 72, line 7 from the bottom, for "conceciably" read "conceivably".

(iii) page 91, line 14 from the bottom, for "I do not.....Resolutions" read "I do not want to read to you all the recent Resolutions".

(iv) page 93, line 10, for "if your please" read "if you please".

(2) Vol. IV, No. 4, dated the 11th July, 1930, page 129, line 22, for "those are in favour" read "those who are in favour".

(3) Vol. IV, No. 6, dated the 14th July, 1930—

(i) page 291, line 13, for "I am aware" read "I am not aware".

(ii) page 306, for the reply to unstarred question No. 53, substitute the following :—

" Mr. G. M. Young : (a) Yes.

(b) A copy of my letter, dated the 24th March, 1930, to Pandit Thakur Das Bhargava is in the Library".

(iii) Page 340, line 20, for "inimportance" read "importance".

(4) Vol. IV, No. 7, dated the 15th July, 1930, page 464, from the first subject-heading delete the word "Ajmer-Merwara".

(5) Vol. IV, No. 9, dated the 17th July, 1930, page 610, line 18, for "Mr. S. C. Mitra" read "Mr. B. N. Misra".

(6) Vol. IV, No. 10, dated the 18th July, 1930, page 661, after the reply to part (c) of starred question No. 296, insert the following reply to part (d) of the same question :—

" (d) Certain concessions were given in the 1929 examination which was for departmental candidates only."

# Legislative Assembly.

## *President.*

*Sir*

THE HONOURABLE MAULVI MUHAMMAD YAKUB.

## *Deputy President.*

SIR HARI SINGH GOUR, KT., M.L.A.

## *Panel of Chairmen.*

MR. M. A. JINNAH, M.L.A.

MR. M. R. JAYAKAR, M.L.A.

SIR HUGH COCKE, KT., M.L.A.

NAWAB SIR SAHIBZADA ABDUL QAIYUM, K.C.I.E., M.L.

## *Secretary.*

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

## *Assistant of the Secretary.*

RAI SAHIB D. DUTT.

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# LEGISLATIVE ASSEMBLY.

*Tuesday, 15th July, 1930.*

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

## QUESTIONS AND ANSWERS.

**Maulvi Abdul Matin Chowdhury** : On behalf of Mr. Mitra, I beg to ask for permission to put the questions standing in his name. No. 85.

### ARRESTS FOR POLITICAL OFFENCES IN THE NORTH WEST FRONTIER PROVINCE.

85. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Will Government please lay on the table a statement showing, district by district, in the North West Frontier Province, the number of arrests for political offences of Congress workers, Khilafatists, Khudai-Khidmatgars and Afghan-Youth-Leaguers and also state the section of the law under which they were arrested and the number of convictions, the period and nature of sentence and the classification of the prisoners in jail, from the 23rd of April, 1930 ?

(b) Will Government please state the percentage of persons convicted who have offered any defence ?

(c) What is the number of under-trial prisoners and the period for which they have been kept under custody before bringing them to trial ?

**The Honourable Mr. H. G. Haig** : Sir, questions Nos. 85 to 89 deal with certain detailed matters connected with the North West Frontier Province. I have asked for information in regard to them and as soon as I have received it, I will let the Honourable Member have the replies.

### UNDER-TRIAL PRISONERS IN THE PESHAWAR FORT.

†86. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Will Government please state what is the number of under-trial prisoners in the Peshawar Fort at present and for how long a period they have been confined in the Fort and the section of the law under which they are charged ?

(b) Will Government please state when these cases are likely to be taken up for trial ?

(c) Is it a fact that a press representative, who applied for permission to the District Magistrate to be present during the trial in the Peshawar Fort, was refused permission ? If so, for what reasons ?

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†For answer to this question, see answer to question No. 85.

### ARREST OF MEMBERS OF POLITICAL COMMITTEES IN THE NORTH WEST FRONTIER PROVINCE.

†87. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that the Provincial Congress Committee of North West Frontier Province, the City Congress Committee of Peshawar and the Naujawan Bharat Sabha of Peshawar were declared unlawful assemblies by the Chief Commissioner of the North West Frontier Province, by his order dated the 3rd May, 1930, but announcements were made and notices served on persons concerned on the morning of the 4th May, 1930, and simultaneously without giving any opportunities to those persons to show that they were not unwilling to carry out the intention of the Government declaration and before they did anything after the service of the notice, all the persons were arrested ?

(b) Is it a fact that some of the arrested persons are not even members of the Congress Committee of the current year and that they were arrested merely because their names appeared in last year's Congress members' list ?

(c) Are Government aware that Mahasha Krishna, Editor of the liberal newspaper, the *Frontier Advocate*, is not even a member of the Congress or any other body declared unlawful, but was arrested and detained as a member of the unlawful assembly, simply because in his paper, dated the 6th May, he urged for an impartial inquiry committee ?

### ACTION TAKEN AGAINST CERTAIN MUNICIPAL COMMISSIONERS OF PESHAWAR.

†88. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that Mr. Pir Baksh, M.A., LL.B., Pleader and Municipal Commissioner, Peshawar, was asked to furnish security under section 108, Cr. P. C., because he gave notice of a resolution to be moved in the Municipal Committee that the name of the Kissakhani Bazar should be re-named Shahidi (Martyrs) Bazar and Kabli Gate as Khuni Gate, and on his refusal, he has been sentenced to one year's imprisonment ?

(b) Is it a fact that Mr. Attaullah Jan Khan, B.A., LL.B., pleader and Municipal Commissioner of Peshawar, who gave notice of seconding Mr. Pir Baksh's above-mentioned resolution, was called along with Mr. Pir Baksh by Mr. F. C. Isemonger, Inspector General of Police and was asked to withdraw the resolution, failing which they would be sent to jail, and subsequently Mr. Pir Baksh was sentenced to imprisonment and Mr. Attaullah Jan was called by Mr. C. Latimer, and in the presence of other Municipal Commissioners, the Revenue Commissioner very insultingly asked him to withdraw his support of the resolution by saying *kan pakro* (pull your ears) and *tobah karo* (repent) for the future, but the gentleman refused point blank ?

### BURNING AND OCCUPATION BY SOLDIERS OF CERTAIN OFFICES OF POLITICAL BODIES IN PESHAWAR.

†89. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that in the village of Utmanzai, in the Charsadda Sub-Division of Peshawar, Mr. Short, Commanding, Frontier Constabulary, ordered the offices of the Khodai-Khidmatgar, Afghan-Youth-League,

†For answer to this question, see answer to question No. 85.

Congress and National School, to be burnt and they were burnt ? If so, why and under what law or regulation ?

(b) Do Government propose to compensate the owners of these offices ?

(c) Is it a fact that British soldiers have occupied the offices of the Provincial and City Congress Committees and Naujawan Bharat Sabha, Peshawar, from the 4th of May, that they are still in possession of the police, but that the latter refuse to pay the rent of the buildings to the owners ?

#### BLOCKADE OF CERTAIN TOWNS AND VILLAGES.

90. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that certain towns and villages in the North West Frontier Province were kept under blockade by military or Frontier Constabulary for taking part in the national movement ? If so, will Government be pleased to state the names of those towns and villages ?

(b) For what period did the blockades last ?

(c) Is it a fact that during the blockade, no persons, male or female, were allowed to come out or go into the villages or even foodstuff was allowed to enter into the villages, causing starvation in many places ?

**The Honourable Mr. H. G. Haig** : (a), (b) & (c). I understand that owing to the dangerous situation which prevailed in the North West Frontier Province for some weeks as a result of intense anti-Government activities including attempts to stir up tribal hostility, it was necessary for the civil authorities, with the aid of the military, to exercise effective control over certain towns and villages for short periods, and for this purpose to stop outside communication. The places concerned were

Peshawar,  
Kohat,  
Bannu,  
Dera Ismail Khan,  
Charsadda with Prang, and  
Utmanzai.

I am glad to say that the situation has much improved in the Province and I trust that no further necessity for such action will arise.

#### SHOOTING OF A VILLAGER OF CHARSADDA.

91. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that a Hindu young man, Dwarika Nath, aged about 20 years, who went out of his village of Charsadda to perform a religious ceremony in connection with the death of his father on the *Ekadashi* day (the 7th June), while bathing in the river outside the village, was shot dead by a British military officer ?

(b) What is the name and rank of the officer and what action has been taken by Government in this case ?

**Mr. G. M. Young** : (a) A full report of this incident was called for from the local military authorities last month, and I understand that

the local administration has also been asked for a report. From the information received so far it appears that the young man was not bathing, but that having taken part in an unlawful assembly in contravention of an order issued under section 144, Criminal Procedure Code, he had broken through the military cordon established round the village, and persisted in attempting to cross the river.

(b) The officer is reported to be Captain Palmer of the 1st Punjab Regiment. Government are awaiting the receipt of further particulars.

#### FIRE-ARMS CONFISCATED AND LICENSES CANCELLED IN THE NORTH WEST FRONTIER PROVINCE.

92. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : Will Government please state the number of different kinds of fire-arms confiscated and licences cancelled in different places in the North West Frontier Province during the months of April, May and June, 1930 ?

**The Honourable Mr. H. G. Haig** : The information is being collected and will be furnished to the Honourable Member in due course.

#### FLOGGING IN THE PESHAWAR JAIL.

93. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that some under-trial and convicted Khodai-Khidmatgar and other national workers were flogged in the Peshawar Central Jail and other jails in the North West Frontier Province ?

(b) If so, for what offence, and the number of stripes administered in each case ?

(c) Is it a fact that public leaders like Khan Abdul Rab Nishtar, Pleader and Municipal Commissioner, Dr. Charu Chandra Ghosh, President, Provincial Congress Committee, Mr. Radha Krishen, Pleader and President, City Congress Committee, Dr. Syed Gillani, Sardar Milap Singh Akali, Maulana Alla Bux Yusufi, Secretary, Central Khilafat Committee, were threatened by Colonel Brierley, Inspector General of Prisons, to be flogged ? If so, for what reasons ?

**The Honourable Mr. H. G. Haig** : (a) Some prisoners were whipped.

(b) The offence in each case was incitement to mutiny in jail after due warning had been given. The number of stripes awarded varied from 7 to 30.

(c) The impression conveyed by the question is not correct. The facts are that the behaviour of some prisoners in the Peshawar Central Jail on April 23rd and 24th resulted in disorders, which gave rise to considerable anxiety, and as a consequence it was considered necessary that all convicted and under-trial prisoners should be warned that the punishment for incitement to mutiny was whipping.

**Mr. Gaya Prasad Singh** : Sir, I rise to ask a supplementary question. What is the number of prisoners in the Peshawar Central Jail and how many were awarded the punishment of whipping ?

**The Honourable Mr. H. G. Haig** : I am afraid I have not got the information. The information about the number of prisoners in the Peshawar Jail I think is being collected in answer to a previous question.

**Dr. Nand Lal :** May I ask how many convicted prisoners were transferred from the Peshawar Jail to other jails in the Punjab, especially Gujrat ?

**The Honourable Mr. H. G. Haig :** I am afraid I have not got the information, Sir.

**Dr. Nand Lal :** Thank you.

#### SHOOTING OF CERTAIN MEMBERS OF THE FAMILY OF SARDAR GANGA SINGH IN PESHAWAR.

94. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that while Sardar Ganga Singh, Supervisor, Military Dairy Farm, Peshawar, was coming on a *tonga* with the members of his family to attend the Gurudwara on a religious ceremony, a British soldier fired upon him near the Kabli Gate, Peshawar City, killing his son, a boy of 15 months and a daughter aged 9 years and seriously wounding his wife ?

(b) Is it a fact that neither police nor military took any steps to take the wounded lady to the hospital and it was left to the public to render first aid and to take the poor family to the hospital ?

(c) Is it a fact that while the dead bodies of the children were being taken in a procession to the funeral ground through the bazar, with the permission of the Deputy Commissioner, some British soldiers, without giving any warning, fired at the procession and killed and wounded several persons ? Will Government please state how many were killed and wounded on this occasion ?

(d) Is it a fact that Government thought of starting an inquiry in this matter by a Sessions Judge but had to give up the idea because of the opposition of the military authorities ?

**The Honourable Mr. H. G. Haig :** (a) The facts are stated in the judgment of the Additional District Magistrate, Peshawar, dated the 3rd of June, 1930, a copy of which is placed in the Library. This most regrettable incident was the result of a pure accident.

(b) The Honourable Member will observe from the judgment that the lady's wound was dressed at once in the Police Station, from where she was sent immediately to the Lady Reading Provincial Hospital.

(c) My information is that the procession met a detachment of British troops, that the crowd was very excited and attempted to seize the rifles of the soldiers, that it refused to disperse, and that the order to fire had to be given. The casualties were nine persons killed and 18 wounded.

(d) The answer is in the negative.

#### ESTABLISHMENT OF A GIRLS' HIGH SCHOOL AT PESHAWAR.

95. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that there is not a single high or middle Government girls school in the whole of the North West Frontier Province ?

(b) Is it a fact that there is an incessant demand for a Government high and normal (combined) school for girls, with hostel and playground at Peshawar ?

(c) Is it true that a largely signed memorial by the ladies and leading men of Peshawar of all communities was submitted to the Chief Commissioner on the 24th of July, 1928, for the establishment of a residential Government girls high school? If so, will Government please lay on the table a copy of the memorial and the reply thereto? Was there any correspondence in this connection between the Local Government and the Government of India? If so, with what result?

(d) Are Government aware that on the 26th of January, 1929, a representative deputation of ladies of the Frontier Province waited on Mr. J. H. Towle, D. I. P. of North West Frontier Province and presented an address directing his attention for expansion of female education and particularly for the establishment of a Government high school for girls at Peshawar? What was the result?

(e) Is it a fact that on the 3rd of October, 1929, a representative deputation of ladies of all communities waited on Mr. R. Littlehales, Educational Commissioner with the Government of India when he visited Peshawar and pressed on him the urgency of the establishment of a combined high and normal Government school for girls at Peshawar? Did he not promise to take up this matter as soon as financial conditions permitted? If so, when it is likely to be taken up? Will Government lay on the table a copy of the said address and the reply thereto?

**Sir Frank Noyce :** (a) and (b). Yes.

(c) Yes; a copy of the memorial and of the reply is laid on the table. The Government of India forwarded to the Chief Commissioner a representation which had been received by them on the subject and informed him that the matter would be looked into by the Educational Commissioner when he visited the province.

(d) Yes; an assurance was given that the Department would do its best to help to meet the needs to which the deputation had referred.

(e) The answer to the first two questions is in the affirmative. The question of establishing a Government high school for girls at Peshawar is now under the consideration of Government. A copy of the address presented to Mr. Littlehales is laid on the table. As his reply was given *ex-tempore* a copy is not available.

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*Memorial.*

To  
The Honourable the Chief Commissioner,  
North West Frontier Province,  
Nathia gali.

SIR,

We, the undersigned, strongly urge upon the Government, the imperative necessity of opening a Government High School for Girls at Peshawar with hostel attached to it, as early as possible, since the lack of facilities for higher education for girls at Peshawar, is retarding the progress of female education here. It goes without saying that parents are now very anxious to impart higher education to their girls as to their sons, consequently they have to send their girls to Lahore or other distant places, at a considerable expense and sacrifice. It is a pity that while several towns in the Punjab boast of High Schools for Girls, the Government of the North West Frontier Province, has not yet thought it wise to make any provision for the higher secondary education of girls. The question is not now one of academic discussion but has poised into the range of practical politics. While we appreciate the policy of the Local Government in the matter of spreading literacy among males, we are constrained

to remark that the Local Government is treating the question of provision of facilities for girls' education, in a step motherly manner. That the demand for the same is genuine and keen is evidenced by the number of signatories to this representation. The Director of Public Instruction and the Inspectress of Girls Schools are both enthusiasts and there seems to be no reason why the Government should dally with this matter of so vital importance to the public. The Honourable the Chief Commissioners' speech on the opening of the new building of the Government High School (for boys) at Peshawar, has raised high expectations in the minds of the people that the Government is determined to provide educational facilities, same as exist in other Provinces. We have yet to see if the Local Government is really earnest in the matter of breaking down illiteracy among girls and the Government ought to give a practical proof of its earnestness by acceding to the popular demand for girls High School without any further delay.

We beg to remain,

Sir,

Your most obedient servants,

Signed by :

60 ladies.

22 Representatives of the twenty-two Religious, Social and Political Societies.

22 Municipal Commissioners, Members of District Board, Members of Cantonment Board, Honorary Magistrates and Members of the Indian Legislative Assembly.

31 Professors, Headmasters and other Prominent educationists.

20 Leading Medical Practitioners.

44 Barristers, Vakils and Pleaders.

161 Leading Bankers, Merchants, Import and Export Agents, Contractors, Zamindars, Jagirdars, Title-holders, Journalists, Publishers, Public men and other Prominent people.

C/o.

MRS. K. K. BOMBWAL,

RAMPURA STREET, PESHAWAR CITY.

PESHAWAR,

Dated the 24th July, 1928.

*Reply.*

*Copy of D. O. No. 5981-G.N., dated 13th September, 1928, from the Secretary to the Chief Commissioner, North West Frontier Province, Nathiagali, to Mrs. K. K. Bombwal, Rampura Street, Peshawar.*

Please refer to your letter No. 1, dated the 1st September, 1928, regarding the subject cited above.

A copy of this Office letter No. 4686-87-G.N., dated the 15th August, 1928, to the address of Rai Bahadur Karm Chand, O.B.E., Peshawar, and Khan Sahib Kazi Mir Ahmad, B.A., LL.B., Vice-Presidents, Municipal Committee, Peshawar, is sent herewith, with reference to a similar representation received with your letter dated the 24th July, 1928.

In his letter No. 4686-G.N., dated 15th August, 1928, in reply to a representation made by the Vice-Presidents of Peshawar Municipality, the Secretary to Honourable the Chief Commissioner, North West Frontier Province, wrote :

"I am directed to inform you that the Chief Commissioner has given the representation his careful consideration. He desires as strongly as you



that the education of girls should be stimulated in every possible manner. He notes, however, that there is already one (Church of England Zenana Mission) High School for girls in Peshawar and that the number of girls in the high school classes—he understands that there are 3 girls in Class IX and 6 girls in Class X—does not support the contention that a second (Government) High School is needed. He understands moreover that the number of girls at present in the top classes of existing girls middle schools in Peshawar is not sufficient to supply the high school classes of a second (Government) high school; these numbers, he is informed, are :

<i>Name of school.</i>	<i>Classes.</i>	<i>Number of girls.</i>
1. Municipal Hindi Girls' Vernacular School.	Anglo- VIII	.. 3
	} VII	.. 4
2. Municipal Urdu Girls' Vernacular Middle School.	} VIII	.. 4
	} VII	.. Nil.
3. Arya Hindi Girls' Vernacular Middle School.	} VIII	.. 2
	} VII	.. 8

That is, if class IX of a second (Government) High School were to be opened next year, only three girls—namely those from the anglo-vernacular school—would be available to enter it; the girls from the vernacular middle schools would have to study English for a couple of years in a "Special Class" before they could be admitted. Some girls might possibly come from outside Peshawar, but the number of girls in Class IX and X of the existing (Church of England Zenana Mission) High School leads him to believe that they would be few.

While expressing his sympathy therefore with the cause which you have at heart, the Chief Commissioner desires to say that, in his opinion the small number of girls who would be ready to enter a second (Government) High School if it were opened, does not justify the considerable extra expense which would be involved. Funds moreover are limited; and, if any extra money is provided by the Government of India in the near future for female education, he considers it will be more profitably spent in improving the provision in the primary and middle stages.

He will however be prepared to reconsider this opinion at any time in the future if it appears that the number of girls who wish to join classes IX and X are qualified to do so, has materially increased.

I am at same time to thank you for the interest which you have shewn in this important matter."

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*Address.*

To

R. LITTLEHAILES, Esq., M.A., C.I.E., I.E.S.,

The Educational Commissioner with the

Government of India, Camp Peshawar.

May it please you,

This deputation of the representatives of the ladies of North West Frontier Province most respectfully begs to thank the Government of India for kindly deputing you, Sir, to visit Peshawar and hear the grievances of the women behind the purdah in the matter of education.

We also beg to offer our heart-felt and sincere gratitude to you for having taken the trouble of undertaking this journey and to have given us this opportunity of placing our views before you.

We know, Sir, that the great problem of the education of females in India is not unknown to you. In fact it would be presumptuous on our part to dilate upon it in your presence. Suffice it to say that no one can divorce this problem from the great undertaking of the British Empire, that is to say, the educating of the great Indian Nation towards its final goal of responsible self-Government.

We assure you, Sir, that the importance of this problem does not decrease but increases when it is considered with reference to the N. W. F. Province. As gate-keepers of India it is absolutely necessary that the bringing up of the children of this Province should be on lines which may turn out the proper balance-minded citizen fit to keep a guard over the gateway of India. Who could deny the importance of the mother's lap and the influence of her culture on bringing about such a result?

But, Sir, we regret to inform you that although this aspect of the national advancement of India had such a great importance, it has unfortunately been ignored so far. Girls' education has not been very seriously considered inspite of the successive efforts by the ladies of this Province to obtain greater facilities and better impetus for its advance. We have been told that there was no demand for the girls' education, but Sir, we submit with the greatest deference that this argument amounts to begging the question. What efforts have been made, what spadework has been done and what encouragement afforded for causing the awakening amongst the males and females of the Province to advance this most important aspect of social life?

To tell the truth, Sir, facts and figures show that the nucleus for the advancement of education amongst the females existed. For do we not know that girls from N. W. F. Province have been sent to the Punjab and have been qualifying in various branches of education? To quote a recent instance, twelve girls have passed in the Matriculation Examination this year from the Punjab University. Eight of them were prepared in the Punjab and four offered privately. It will interest you, Sir, that one of the girls, who went up privately, stood first in the N. W. F. P., beating the boys also and obtained a scholarship from the University for having stood first amongst the girls.

But it cannot be forgotten that there are very few people who can afford to bear the expense of educating their children in the Punjab. We cannot lose sight of the factor that parents are not very prone to send their children away to a place situated at a great distance. In spite of all these drawbacks we beg to emphatically stress the importance of the numbers quoted above, and the results, to show that keenness of desire to educate their daughters is not lacking amongst the people of the Province but unfortunately encouragement is not forthcoming.

We beg to invite your attention, Sir, to the annexures to this address which we submit for your kind perusal. It will bring to your mind most forcefully the efforts made by us backed up by our sisters behind the purdah and supported by their husbands and relations for gaining what would be considered almost preliminary steps in a reformed province down country.

We cannot but also invite your attention to the facilities at the disposal of the people of the Punjab which would have been ours had it not been our misfortune to have been weaned from that Province for political considerations.

Our demands have been fully detailed in the address which we presented to the Director of Public Instruction on the 26th of January, 1929. They are modest demands and no more than what our sisters in the Punjab enjoy. The question of finance should not be an obstacle in giving us what is our due for it should not be forgotten, Sir, that these privileges would have been long availed of by us if we had not been separated from our parent Province, and if the Government of India considered it proper to sacrifice us at the altar of political considerations, the duty is heavily cast on them to pay from the central exchequer for our needs and thus compensate us for the loss which we have incurred for no fault of ours.

Again, Sir, it should not be overlooked that the brunt of keeping the land frontier of India and all its resultant disadvantages, inconveniences and dangers are being borne by the people of this Province. There is no reason why the Government of India should not be pleased to bear all the expenses relating to defence of the land frontier which necessarily includes the cost of up-keep of the people doing their duty at the door just as the water frontier of India is being guarded at the expense of the Imperial Government.

We assure you, Sir, that in case the Government is pleased to accede to our demands, there will be no lacking of number of students to come up to the standard required for establishing schools by the Education Department. In particular we guarantee that an up-to-date and well-equipped combined high and normal school for girls with a suitable hostel and play ground attached thereto at the headquarters of the Province on non-sectarian lines, would be exceptionally popular in view of the tremendous expense incurred by the people of the Province on sending their girls to the schools in the Punjab.

In the end, Sir, we beg to thank you for the patience with which you have been pleased to hear our address. We have great hopes in you and the visit is considered by us to be laden with potentialities for the education of the women and girls of the North West Frontier Province. We do fairly hope that we would not be disappointed.

We beg to remain,

Sir,

Your most obedient servants,

*Members of the Ladies Deputation.*

PESHAWAR,

3rd October, 1929.

**Dr. Nand Lal :** May I ask a supplementary question ? Is there any special reason why a girls' school has not yet been established and founded ?

**Sir Frank Noyce :** I take it, Sir, that it has been due to the absence of proposals from the Local Administration on the subject, as also of funds.

#### OCCASIONS OF FIRING IN RECENT DISTURBANCES.

86. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : Will Government be pleased to lay on the table a statement showing, province by province, the number of occasions when firing had to be resorted to by the military or the police during the last three months, and the number of killed and wounded on each occasion ?

**The Honourable Mr. H. G. Haig :** The Honourable Member is referred to the reply given to his question No. 20 on 14th July, 1930.

#### GRIEVANCES OF CERTAIN EMPLOYEES OF THE EASTERN BENGAL RAILWAY PRESS.

97. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that the Government, in reply to my starred question No. 635, stated on 18th September, 1919, that " The Agent, Eastern Bengal Railway, has been requested to deal expeditiously with " the memorial of the compositors, distributors and binders of the Eastern Bengal Railway Press of 23rd May, 1929 ?

(b) If the reply to (a) be in the affirmative, will Government be pleased to state whether the memorial has since been dealt with ? If not, the reason for this unusual delay ?

(c) Is it a fact that the Government in reply to my starred question No. 733, stated on 21st March, 1930, " That a decision will be arrived at shortly " with regard to the introduction of the graded scale of pay for the employees of the Eastern Bengal Railway Press ?

(d) If the answer to (c) be in the affirmative, will the Honourable Member-in-charge of Railways and Commerce be pleased to state the steps that have since been taken with regard to the matter ?

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

(b) I would refer the Honourable Member to the reply given to question No. 69 asked by Khan Bahadur Sarfaraz Hussain Khan on the 20th January, 1930.

(c) and (d). Detailed proposals for revised scales of pay for the Eastern Bengal Railway Press employees have been framed and are under discussion between the Railway Board and the Agent, Eastern Bengal Railway.

**GRIEVANCES OF CERTAIN EMPLOYEES OF THE EASTERN BENGAL RAILWAY PRESS.**

98. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that the Honourable Member-in-charge, Railways and Commerce, received a wire on 28th April, 1930, from the Secretary, Press Employees' Association, Calcutta, to the effect that great unrest is prevailing among the workers of the Eastern Bengal Railway Press on account of unusual delay on the part of Government in disposing of the memorial of 23rd May, 1929 ?

(b) If the reply to (a) is in the affirmative, will Government be pleased to lay a copy of the telegram on the table ?

(c) Are Government aware that a reply was sent to the Secretary, Press Employees' Association, in letter No. 117-E./30, on 5th May, 1930, that the Agent, should be addressed in connection with the service conditions of the employees ?

(d) Is it a fact that the Agent, Eastern Bengal Railway, received a letter on 10th June, 1930, from the Secretary, Press Employees' Association, for immediate disposal of the memorial of 23rd May, 1929 ?

(e) If the answers to (c) and (d) are in the affirmative, will the Honourable Member-in-charge be pleased to state what action has been taken for the speedy disposal of the matter ?

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

(b) A copy of the telegram has been placed in the Library.

(c) Yes.

(d) Government have no information.

(e) The Honourable Member's attention is drawn to the reply I have just given to his previous question.

**GRIEVANCES OF CERTAIN EMPLOYEES OF THE EASTERN BENGAL RAILWAY PRESS.**

99. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that the binders, pressmen, machinemen, galley proof pressmen and form carriers of the Government of India Press are in the superior service ?

(b) Is it a fact that the binders, pressmen, machinemen, galley proof pressmen and form carriers, of the Eastern Bengal Railway Press are in the inferior service ?

(c) If the replies to (a) and (b) are in the affirmative, will Government be pleased to state whether they intend to place the binders, pressmen, machinemen, galley proof pressmen and the form carriers of the Eastern Bengal Railway Press in the superior service ?

**Mr. A. A. L. Parsons :** (a), (b) and (c). The information has been supplied to the Honourable Member, *vide* Railway Board's letter No. 117-F./30, dated the 10th July, 1930.

#### GRIEVANCES OF CERTAIN EMPLOYEES OF THE EASTERN BENGAL RAILWAY PRESS.

100. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that Mr. Slatter, the Special Officer appointed by the Railway Board, to go into the grievances of the Press workers, during his last visit to the Eastern Bengal Railway Press, assured the employees, in the presence of the Superintendent, that the piece system would be abolished, the salary system would be introduced, and all the employees would be placed on the superior service ?

(b) If the reply to (a) is in the affirmative, will Government be pleased to state what has been done to give effect to that assurance ?

**Mr. A. A. L. Parsons :** (a) and (b). Enquiry will be made from Mr. Slater who is at present on leave out of India and a reply will be sent to the Honourable Member on its receipt.

#### GRIEVANCES OF CERTAIN EMPLOYEES OF THE EASTERN BENGAL RAILWAY PRESS.

101. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that holidays during the Durga Puja festival, Muharram and Christmas were allowed to all the employees of the Eastern Bengal Railway Press irrespective of their religion ?

(b) Are Government aware that the Muhammadan employees were not allowed to enjoy the holidays during the Durga Puja festival, the Hindu employees the Muharram holidays and both the Hindu and Muhammadan employees the Christmas holidays in this year ?

(c) If answers to (a) and (b) are in the affirmative, will the Honourable Member-in-charge, Railways and Commerce, be pleased to state the reason for this departure ?

**Mr. A. A. L. Parsons :** (a), (b) and (c). I have called for the information from the Agent, Eastern Bengal Railway, and will communicate with the Honourable Member on its receipt.

#### GRIEVANCES OF CERTAIN EMPLOYEES OF THE EAST INDIAN RAILWAY PRESSES OF HOWRAH AND CALCUTTA.

102. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that, in reply to my starred question No. 702, Government stated on 21st March, 1930, that the Agent of the East Indian Railway has been asked to deal with the memorial, dated 2nd January, 1930, of the compositors, distributors and binders of the East Indian Railway Presses of Howrah and Calcutta, as expeditiously as possible ?

(b) Is it a fact that the Honourable Member-in-charge received a telegram from the Secretary, Press Employees' Association, Calcutta, on 28th April, 1930, to the effect that great unrest was prevailing among the East Indian Railway Press workers ?

(c) Is it a fact that Government in letter No. 117-E.30, dated 5th May, 1930, directed the Secretary, Press Employees' Association, to refer the matter to the Agent, East Indian Railway ?

(d) Is it a fact that the Agent, East Indian Railway, received a letter from the Secretary, Press Employees' Association, Calcutta, dated 6th June, 1930, for immediate disposal of the memorial of 2nd January, 1930 ?

(e) If the answers to (a), (b), (c) and (d) are in the affirmative, will Government be pleased to state what has been done with regard to the matter ?

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

(b) Yes.

(c) Yes.

(d) Government have no information.

(e) Detailed proposals for revised scales of pay for the East Indian Railway Press employees have been framed and are under discussion between the Railway Board and the Agent, East Indian Railway.

#### GRIEVANCES OF CERTAIN EMPLOYEES OF THE EAST INDIAN RAILWAY PRESSES OF HOWRAH AND CALCUTTA.

103. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Will the Honourable Member-in-charge, Railways and Commerce, be pleased to lay on the table a statement showing the names of the binders of the East Indian Railway Press, both of Calcutta and Howrah, with their respective lengths of service and the last increment allowed to each of them ?

(b) Is it a fact that under the existing rules the binders of the East Indian Railway Press are promoted to the next higher class, when the maximum of the grade is reached ?

(c) Is it a fact that the Printing Superintendent, East Indian Railway, received a letter, dated 16th May, 1930, from the Secretary, Press Employees' Association, Calcutta, with a list of employees who have not been given any increment or promotion during the period ranging from 5 to 14 years ?

(d) If the reply to part (c) is in the affirmative, will Government be pleased to state the reasons for withholding promotion or increment to the employees as stated in the said letter ?

**Mr. A. A. L. Parsons :** (a), (b), (c) and (d). I have called for information from the Agent, East Indian Railway, and will communicate with the Honourable Member on its receipt.

#### GRIEVANCES OF CERTAIN EMPLOYEES OF THE EAST INDIAN RAILWAY PRESSES OF HOWRAH AND CALCUTTA.

104. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that the binders, pressmen, machinemen, galley proof pressmen and form carriers of the Government of India Press are in the superior service ?

(b) Is it a fact that the binders, pressmen, machinemen, galley proof pressmen and the form carriers of the East Indian Railway Press are in the inferior service ?

(c) If the replies to (a) and (b) are in the affirmative, will Government be pleased to state whether they intend to place the binders, machinemen, pressmen, galley proof pressmen and the form carriers of the East Indian Railway Press in the superior Service ?

**Mr. A. A. L. Parsons :** (a) The Honourable Member's attention is invited to the reply given in Railway Board's letter No. 117-E., dated 10th July, 1930, in answer to his question No. 736 (a) of the 21st March, 1930.

(b) No definite classification has been laid down by the East Indian Railway.

(c) The question of the classification of the staff of the East Indian Railway Press is under consideration.

#### GRIEVANCES OF CERTAIN EMPLOYEES OF THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

105. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that, in reply to my starred question No. 631, dated 18th September, 1929, regarding the pay of the piece-workers, Government of India Press, Calcutta, the Honourable Member-in-charge of Industries and Labour, stated that the same was under his careful consideration ?

(b) Is it a fact that, in reply to my starred question No. 721, dated 21st March, 1930, the Honourable Member-in-charge of Industries and Labour, stated that the memorials of the piece-workers of the Government of India Press, Calcutta, were still under the consideration of the Government of India ?

(c) If the answers to parts (a) and (b) are in the affirmative, will Government be pleased to state the steps that have since been taken ?

(d) Will Government be pleased to lay on the table their correspondence with the Manager, Government of India Press, Calcutta, with his recommendations regarding the pay of the piece-workers ?

**The Honourable Sir Joseph Bhore :** (a) and (b). Yes.

(c) Government have passed orders granting certain concessions to the memorialists.

(d) Government do not propose to lay on the table a copy of the correspondence.

#### GRIEVANCES OF CERTAIN EMPLOYEES OF THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

106. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that Government have received a memorial from the Mono-casters of the Government of India Press, Calcutta, dated 13th March, 1930 ?

(b) If the answer to (a) is in the affirmative, will the Honourable Member-in-charge, Industries and Labour, be pleased to state what steps have been taken in the matter? If not, why not?

(c) Is it a fact that according to the Civil Service Rules and Regulations, as well as the Government Servants' Conduct Rules, any employee suffering from an infectious disease, is liable to dismissal?

**The Honourable Sir Joseph Bhore :** (a) and (b). Yes. The memorial has been considered and rejected.

(c) The attention of the Honourable Member is invited to the reply given to part (a) of his starred question No. 665 in the Legislative Assembly on the 23rd September, 1929.

#### GRIEVANCES OF CERTAIN EMPLOYEES OF THE EASTERN BENGAL RAILWAY PRESS.

107. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that the salaried hands in the Eastern Bengal Railway Press, are allowed increments in their pay while the piece-workers do not get any increment whatsoever?

(b) If the reply is in the affirmative, will Government be pleased to state the reasons therefor?

(c) Will the Honourable Member-in-charge, Railways and Commerce, be pleased to state whether Government are contemplating giving increments to the piece-workers of the Eastern Bengal Railway Press?

(d) Is it not a fact that the compositors are promoted to section-holders, the section-holders to overseers, in the Government and railway Presses?

(e) Is it not a fact that the present overseer of the Eastern Bengal Railway Press has been recruited from the clerical staff?

(f) If the answers to (d) and (e) are in the affirmative, will Government be pleased to state the reasons for (e)?

**Mr. A. A. L. Parsons :** (a), (b), (d), (e) and (f). I am calling for the information and will communicate with the Honourable Member on its receipt.

(c) The Honourable Member's attention is drawn to the reply I have just given to his question No. 102 (e).

#### GRIEVANCES OF CERTAIN EMPLOYEES OF THE EAST INDIAN RAILWAY PRESS, HOWRAH.

\*108. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that Government have received a memorial from the employees of the ticket printing, Howrah, East Indian Railway Press, dated 25th June, 1930?

(b) If the answer is in the affirmative, will Government be pleased to state what action has been taken in the matter?

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

(b) Does not arise.



## DELIVERIES FROM NALDHI POST OFFICE.

109. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that, in reply to my starred question No. 732, the Honourable Sir Bhupendra Nath Mitra stated on 21st March, 1930, that the copy of the question was forwarded to the Post Master General, Bengal and Assam ?

(b) If the reply to (a) is in the affirmative, will the Honourable Member-in-charge, Industries and Labour, be pleased to state what action has since been taken in the matter ?

(c) Will Government be pleased to lay on the table a comparative statement showing the number of deliveries made during the last six months in the villages of Sankerpore and Hobokhali under the Naldhi P. O. in the district of Jessore ?

(d) Is it a fact that the number of beats in the village of Sankerpore under the Naldhi P. O. in the district of Jessore has been reduced to two in place of five ?

(e) Is it a fact that number of beats in the village of Hobokhali under the P. O. Naldhi has been increased from two to five ?

(f) Is it a fact that the income from the village of Sankerpore is more than the village of Hobokhali ?

(g) Will the Honourable Member-in-charge, Industries and Labour, be pleased to state the number of peons employed in the Post Offices of Naldhi and Nohatta, respectively, in the district of Jessore ?

(h) Will Government be pleased to state whether they contemplate increasing the number of peons and introducing the system of daily beat in Sankerpore under the Naldhi P. O. ?

**Mr. H. A. Sams** : (a) Yes.

(b) The village is now served three times instead of twice a week.

(c), (e) and (f). The information is being collected and will be supplied to the Honourable Member when received.

(d) No.

(g) It is presumed that by the term "peon" postman is meant. There is one postman at Naldhi and there are three at Nohatta.

(h) No, the number of articles is not sufficiently large to justify a daily service.

#### INSTALLATION OF A TELEPRINTER AT THE PARK STREET TELEGRAPH OFFICE, CALCUTTA.

110. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Will Government be pleased to state if it is a fact that a telegraph typewriter machine has been fitted at the Park Street, T. S. O., Calcutta, for receiving telegrams ?

(b) If so, will Government be pleased to state what the price of the machine is ?

(c) Is it a fact that a mechanic has also been appointed to repair the machine, when it becomes out of order ?

(d) If so, what is the pay of the mechanic and for how many hours a month does he work ?

(e) How many telegrams are daily received on an average in the Park Street T. S. O. for delivery ? What is the approximate amount that has been saved to the department by fitting that machine for receiving telegrams since the appointment of that mechanic ?

**Mr. H. A. Sams :** (a) Yes. The apparatus is known as a "teleprinter".

(b) Rs. 1,500.

(c) No. One of the mistries employed in the Central Telegraph Office, Calcutta, attends to the machine when necessary.

(d) Does not arise.

(e) The average number of telegrams received daily in the Park Street Telegraph Office is 136. The arrangement, which is of a purely experimental nature, was started on 23rd June, 1930. It was introduced not with the object of effecting an economy in the working of the Park Street Office, but with the object of testing the suitability of this system of working between the Central Telegraph Office and the local offices in order to secure the more expeditious disposal of telegrams by decentralising the delivery work which is at present centralised in the Central Telegraph Office, Calcutta. As stated in reply to part (c) of the question, no special mechanic has been appointed to look after the machine.

#### DENIAL OF FIRST CLASS POWERS TO THE SUB-POSTMASTER, BEADON STREET POST OFFICE, CALCUTTA.

111. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Will Government be pleased to state if it is a fact that the Sub-Postmasters of Kalvadevi and Mandvi in Bombay and of Barabazar in Calcutta have been given certain powers of first class Postmasters and they are no longer under the Divisional Superintendents ?

(b) If so, will Government be pleased to state why the same powers have not been conferred on the Sub-Postmaster of Beadon Street in Calcutta ? Is he equal in rank and pay to those of Kalvadevi, Mandvi and Barabazar T. S. Os. ?

(c) Is it a fact that the house rent of the Beadon Street T. S. O. (Calcutta) is Rs. 1,500 per month, and is this high rent paid on account of the importance of the T. S. O. ?

(d) Will Government be pleased to state why the Sub-Postmaster of Beadon Street T. S. O. has been denied first class powers and been compelled to work under the Divisional Superintendent ?

**Mr. H. A. Sams :** (a), (b) and (d). Inquiries are being made and the results will be communicated to the Honourable Member in due course.

(c) The reply to the first part of the question is in the affirmative. As regards the second part, the rent paid for a post office is determined by prevailing local rentals and the extent of the accommodation required.

## APPOINTMENT OF SELECTION GRADE SUPERVISORS FOR POSTAL DEPARTMENTS.

112. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Will Government be pleased to state if it is a fact that the Postal Inquiry Committee recommended that a Department with an office of five clerks or more should be under the supervision of a selection grade official ?

(b) If so, will Government be pleased to state how many clerks there are in the following Departments of the Calcutta General Post Office and whether they have got selection grade supervisors ?

1. Registration Packet Sorting.
2. Money Order Delivery Department.
3. Money Order Audit Department.
4. Division No. 7 and 9 of the Parcel Sorting Department.
5. Issue, Receipt and Registration Sections of the Correspondence Department.

(c) Will Government be pleased to state how many Departments there are in the Calcutta General Post Office over and above those mentioned above, where there are five or more clerks, but where there are no selection grade supervisors ?

(d) Will Government be pleased to state the reasons why selection grade posts have not been sanctioned for these Departments ?

(e) Is it a fact that there are three selection grade appointments in the Accounts Department of the Calcutta General Post Office ? What is the strength of that Department ?

(f) Will Government be pleased to state whether they are prepared to transfer one of these appointments to another department where there is absolute necessity for a selection grade post, in case they cannot sanction all the posts just at present ?

**Mr. H. A. Sams** : (a) No.

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

(e) There are three selection grade appointments ; and the strength of the Department is 16.

(f) Any suggestion received from the Postmaster-General for a redistribution of the selection grade posts will receive my careful consideration.

## PHTHISIS AMONGST THE STAFF OF THE HOWRAH POST OFFICE.

113. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Has the attention of Government been drawn to correspondence in the *Labour* entitled " Phthisis at Howrah " published in its issue of May, 1930 ?

(b) Is it a fact that the Howrah Post Office was once visited by the Civil Surgeon of Howrah, who spoke of the bad condition of the office and recommended evacuation in the interests of the health of the staff ?

(c) Is it a fact that altogether 18 deaths have occurred amongst the staff of the Post Office up till now ?

(d) Will Government be pleased to supply a copy of the report of the Civil Surgeon, Howrah, in this matter ?

**Mr. H. A. Sams :** (a) Government have seen the correspondence.

(b) and (d). Yes ; a copy of the Civil Surgeon's report is being furnished to the Honourable Member.

(c) Thirteen deaths occurred from May, 1926, to March, 1930, including one from phthisis.

#### REPORTED LOSS ON THE POSTS AND TELEGRAPHS DEPARTMENT.

114. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Has the attention of Government been drawn to an article in the *Times of India* on the 28th March, 1930, under the caption "Indian Posts and Telegraphs. Are they running at a loss ?" which article was subsequently reproduced in the April issue of *Labour* ?

(b) Is it a fact that postage stamps are supplied free of charge to Rulers of the Indian States, as has been stated therein ?

(c) If so, will Government be pleased to state the exact amount of postage supplied to them during the last two years ?

(d) Will Government please state why the amount is not charged for from them ?

**The Honourable Sir Joseph Bhore :** (a) Yes.

(b) Yes. Service postage stamps are supplied to certain Indian States free of charge.

(c) Free postage stamps to the value of Rs. 3,01,735 were supplied in 1928-29 and Rs. 3,32,138 in 1929-30 ; but in addition free postal service within the State is also allowed in certain cases, the aggregate annual value of which amounts to about Rs. 6½ lakhs.

(d) The amounts are not recovered from the States because the arrangements form part of the mutual agreements or understandings relating to the working of the Indian Posts and Telegraphs Department in the several States.

#### RAIL AND STEAMER PASSES FOR POSTAL SUPERINTENDENTS AND INSPECTORS.

115. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that, several years ago, the Postal and Railway Mail Service Superintendents and Postal and Railway Mail Service Inspectors were given free passes for travelling in railways and steamers in connection with their work of inspection or investigation ?

(b) If the reply to the above be in the affirmative, will Government be pleased to state whether this concession has been withdrawn by Railways and steamer companies ? If so, why ?

(c) Will Government be pleased to state the amount which was spent in the last two years for paying train and steamer fares to the Superintendents and Inspectors ?

(d) Will Government be pleased to supply a copy of the letter or Resolution of the Government of India under which the railways issued free passes to the Superintendents and Inspectors ?

**Mr. H. A. Sams :** (a) and (b). Yes, but the concession was withdrawn, by railways only, from the 1st April, 1926, except in so far as it was necessary to continue it for Railway Mail Service work, this change being made because of the commercialization of the Railways and the Posts and Telegraphs Department.

(c) Government have no precise information readily available. The trouble involved in the collection of the information would be considerable. Government do not therefore propose to ascertain the amount.

(d) A copy of the Government of India Public Works Department Circular No. XLII-Railway, dated the 16th November, 1881, and of the Rules for Free Passes attached thereto will be given to the Honourable Member.

#### CONVEYANCE OF MAILS BY GARRAGE (CALCUTTA), LIMITED.

116. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) With reference to paragraph 2 of the agreement between Garrage (Calcutta), Ltd. and the Director General of Posts and Telegraphs for conveyance of mails of the Calcutta General Post Office and the T. S. Os., by motor vans, will Government be pleased to state whether the contractors maintain a fleet of cars, as has been mentioned in that paragraph ?

(b) Will Government be pleased to state how many motor cars have been built by the Company up to 31st March, 1930, since taking over the work and what are their respective carrying capacities ?

(c) Have these cars been approved by the Postmaster General, Bengal and Assam with reference to the schedule of trips prepared by the Presidency Postmaster, Calcutta ?

(d) Will Government be pleased to supply a statement showing the amount paid to the contractors in the year 1927-28, 1928-29 and 1929-30 ?

**Mr. H. A. Sams :** (a) Yes.

(b) Eighteen Cars.

Details :—6 one-ton Fords.

6 half-ton Fords.

2 one and half ton Beans.

2 one-ton San Fords.

1 one and half ton San Fords.

1 quarter-ton Trojan.

(c) Yes.

(d) 1927-28—Rs. 2,07,023-2-0.

1928-29—Rs. 2,13,825-0-0.

1929-30—Rs. 2,08,955-0-0.

The figures include the cost of extra haulage.

#### SCOPE OF THE RETRENCHMENT OFFICER'S INQUIRIES.

117. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Will Government be pleased to state if it is a fact that a

**Retrenchment Officer** has been appointed by the Government to effect retrenchment in all Departments of the Government of India ?

(b) If the reply be in the affirmative, will Government be pleased to state the terms and scope of the inquiry to be made by the Retrenchment Officer ?

(c) Will Government be pleased to state whether they intend to effect retrenchment in the Postal Department also ? If so, on what lines ?

**The Honourable Sir George Schuster :** (a) and (b). I would invite the Honourable Member's attention to paragraph 5 of the Proceedings of the Meeting of the Standing Finance Committee, Volume IX, No. 19. An officer has been placed on special duty in the Finance Department to carry out, in conjunction with that Department, a detailed and technical review of the various causes operating to increase the administrative expenditure of the Central Government, and to explore avenues of economy.

(c) The possibility of effecting retrenchment in the sense of economies in working is continuously before the responsible heads of the Post and Telegraphs Department. Government are also considering the question of undertaking a special examination of the growth of expenditure in this Department on the lines now being followed for the ordinary administrative services by the Officer on Special Duty in the Finance Department. A decision on this point will be taken shortly.

#### **APPOINTMENT OF MR. J. N. GUPTA AS ACCOUNTANT, CALCUTTA GENERAL POST OFFICE.**

118. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) With reference to starred question No. 538 in the Legislative Assembly on the 12th March, 1930, about the appointment of Mr. J. N. Gupta as Accountant, Calcutta General Post Office, will Government be pleased to state what the Government mean by "so long as he works in and is considered suitable for the appointment" as appears in the reply to part (b) of that question ?

(b) Will Government be pleased to state how many years an official can work in a particular appointment provisionally ?

(c) Have Government called for any report from the authorities concerned as to the suitability and fitness of Mr. J. N. Gupta ?

**Mr. H. A. Sams :** (a) The meaning is that Mr. J. N. Gupta will hold the post of Accountant, Calcutta General Post Office, so long as he works satisfactorily in that post.

(b) There is no prescribed time limit.

(c) No.

#### **GRANTS MADE TO RECREATION CLUBS OF POSTAL AND TELEGRAPH OFFICIALS.**

119. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Will Government be pleased to state what amount of grant was made to the Recreation Clubs of postal officials and telegraph officials, and on what condition ?

(b) Will Government please state what amount has been provided in this year's budget ?

**The Honourable Sir Joseph Bhore :** (a) During the year ending March 31st, 1930, Rs. 6,840 were granted to Postal and Railway Mail Service Recreation Clubs, and Rs. 4,965 to Telegraph Recreation Clubs. These grants are given to Clubs intended solely for recreation purposes and which are properly organised and managed.

(b) Rs. 7,500 for Postal and Railway Mail Service Recreation Clubs and Rs. 5,000 for Telegraph Recreation Clubs.

#### PAY OF EXTRA DEPARTMENTAL AGENTS IN CERTAIN POST OFFICES IN BENGAL.

120. **\*Maulvi Abdul Matin Chaudhury** (on behalf of Mr. S. C. Mitra) : (a) Will Government be pleased to state the pay of the Extra Departmental Agents in the E. D. Offices of Musapur, Maitbhanga, Aminullah, respectively, in the District of Noakhali (Bengal) ?

(b) Is it a fact that the Extra Departmental Agent in the Nyamasti Post Office in the same locality gets an allowance of Rs. 6 only ?

(c) Will Government be pleased to state the difference in pay between that of the Extra Departmental Agent of Nyamasti and that of the Extra Departmental Agents of other Post Offices mentioned in (a) above ? Do Government contemplate to remove this disparity ?

**Mr. H. A. Sams :** (a) Extra Departmental Agents do not receive pay but allowances, which in the cases of the offices referred to by the Honourable Member are Rs. 9, Rs. 14 and Rs. 14, respectively.

(b) Yes.

(c) The differences are Rs. 3, Rs. 8 and Rs. 8, and as these allowances are fixed with due regard to the amount of work performed by the various Extra Departmental Agents, such disparities are inevitable, nor is there any general case for their removal.

#### RUFFIANLY ATTACKS ON OVERSEERS, POSTMEN AND RUNNERS.

121. **\*Maulvi Abdul Matin Chaudhury** (on behalf of Mr. S. C. Mitra) : (a) Is it a fact that of late many overseers, runners and postmen have been attacked by ruffians, and as a result of which some of them died and the Government cash and mails were looted ?

(b) If so, will Government be pleased to state how many cases of this nature occurred during the years, 1929 and 1930 ?

(c) Will Government please state what they propose to do to give protection to these men from the attack of ruffians, and what provision has been made for their families ?

**Mr. H. A. Sams :** (a) There have been some cases of the kind.

(b) 18 cases occurred in 1929, in which 4 were attended with murder, and 19 in 1930, in which 4 were attended with murder.

(c) No measure short of an expensive escort can give effective protection against attacks by ruffians. As a preventive measure, however,

conveyance of mails and cash is restricted to the day time and double sets of runners are employed where necessary. Postmen are allowed departmental escorts when the amount of cash is heavy. An extraordinary gratuity or family pension has been sanctioned in some cases, while others are under consideration.

**WRETCHED CONDITION OF THE MAGRA POST OFFICE.**

122. **\*Maulvi Abdul Matin Chaudhury** (on behalf of Mr. S. C. Mitra) : (a) Has the attention of Government been drawn to a complaint under the caption "Working under an umbrella" stating about the wretched condition of the Magra Post Office ?

(b) Will Government please state whether it is a fact that, in spite of representation about the wretched condition of the Post Office, no action has been taken by the Superintendent of Post Offices, Hooghly Division ?

(c) Will Government please state what action they propose to take to remedy the wretched condition of the Magra Post Office and make it habitable ?

**Mr. H. A. Sams** : (a) Yes.

(b) The fact is not as stated. Action was taken by the Superintendent of Post Offices, Hooghly Division, on receipt of a representation from the Sub-Postmaster, Magra. No building was, however, available in the locality for the temporary accommodation of the Magra Post Office.

(c) A sum of Rs. 927 was sanctioned by the Postmaster-General, Bengal and Assam Circle, on the 16th June, 1930, for thorough repairs to the Magra Post Office building. The work is in progress.

**HARDSHIPS OF POST OFFICE SAVINGS BANK CLERKS.**

123. **\*Maulvi Abdul Matin Chaudhury** (on behalf of Mr. S. C. Mitra) : (a) Has the attention of Government been drawn to an article under the caption "Hardship of the Savings Bank Clerks" published in May, 1930, issue of the *Labour* ?

(b) Is it a fact that the Accountant-General, Posts and Telegraphs, has submitted certain proposal to the Director-General regarding work of the Savings Bank Department which has not yet been accepted by the Director-General ?

(c) If so, will Government please state what they propose to do to give relief to the Savings Bank Clerks ?

**Mr. H. A. Sams** : (a) Yes.

(b) and (c). Yes, the matter is still under consideration.

**LOSS OF LIFE ON THE DIBRU-SADIYA RAILWAY LINE.**

124. **\*Mr. Anwar-ul-Azim** : (a) Will Government be pleased to state what is the relation of the Government of India with the Dibru-Sadiya Railway in Assam ? Has the attention of Government been drawn to the fact that the Dibru-Sadiya Railway passes through the town of Digboi from Charali to Digboi station and that it is responsible for the loss of many lives on that account ?



(b) Are Government prepared to consider the desirability of having that part of the said Railway Line fenced by the Company ?

**Mr. A. A. L. Parsons :** (a) and (b). I am making inquiries and will let the Honourable Member have a reply in due course.

#### LACK OF MONEY ORDER AND POSTAL FACILITIES IN THE DIGBOI THANA.

125. **\*Mr. Anwar-ul-Azim :** Will Government be pleased to state what are the post office hours, for registration and money orders in Dibrugarh Head Office ? How many post offices are there in Digboi Thana of Lakhimpur District ? Are Government aware that the labouring populations of Digboi suffer greatest hardship and troubles for want of proper facilities for sending their money orders and registered articles ?

**Mr. H. A. Sams :** The hours for registration and issue of money orders at Dibrugarh Head Office are :

Registration	From 7 A.M. to 10 A.M. and from Noon to 3 P.M. On Saturdays from 8 to 10 A.M. and from Noon to 2 P.M.
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Money Orders	From 9 A.M. to 2 P.M. On Saturdays from 9 A.M. to Noon.
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There is only one Post Office, viz., Digboi, in the Digboi Thana.

Only one complaint has been received, namely, from the Labour Superintendent in May, last, about the inconvenience felt by the Labourers in issuing money orders. On investigation it was found to be due to the sudden illness of one of the postal clerks.

#### REVENUE DERIVED FROM PETROL AND OIL IN ASSAM.

126. **\*Mr. Anwar-ul-Azim :** Will Government be pleased to state how much revenue on petrol annually they get from the Assam Oil Company at Digboi (Assam), and how much from royalties on oil ?

**The Honourable Sir George Schuster :** Taking the average for the last four years the amount of excise duty collected on motor spirit produced at the Digboi refinery was Rs. 14,42,554. Information regarding royalties on the oil wells has been called for and it will be communicated to the Honourable Member separately when received.

#### SELECTION OF REPRESENTATIVES FOR THE ROUND TABLE CONFERENCE.

127. **\*Mr. Anwar-ul-Azim :** Will Government be pleased to state on what basis and on whose recommendations, representatives from the provinces will be selected to sit on the Round Table Conference ?

**The Honourable Mr. H. G. Haig :** The Honourable Member is referred to the reply which I gave to parts (c) and (d) of Mr. M. K. Acharya's question No. 84.

#### MEMBERS OF THE LEGISLATIVE ASSEMBLY APPOINTED TO THE CENTRAL BANKING INQUIRY COMMITTEE.

128. **\*Mr. Anwar-ul-Azim :** Will Government be pleased to state how many Members of the Legislative Assembly were selected to serve

on the Central Banking Inquiry Committee ? What is their status now, if they have resigned their seats in the Assembly ?

**The Honourable Sir George Schuster :** Excluding the Chairman, seven members of the Central Banking Inquiry Committee were Members of the Legislative Assembly. Two of these have resigned their seats in the Assembly. Their resignation does not affect their status as members of the Committee.

#### DENIAL OF LAND TO EX-SERVICE SEPOYS OF MERWARA.

129. **\*Rai Sahib Harbilas Sarda :** (a) Is it a fact that agricultural land in the Punjab was granted to Indian non-commissioned officers and sepoy who fought for Britain in the World War, 1914—1918 ?

(b) Is it a fact that the District of Merwara (Ajmer Province) furnished the largest percentage of its population as sepoy in India in the war ?

(c) Is it a fact that when agricultural land was awarded to those who had gone to that war, no land was given to sepoy from Merwara on the ground that land in the Punjab was reserved for Punjabi sepoy ?

(d) Is it a fact that the sepoy of Merwara were admitted as eligible for grant of land in connection with the Sindh Barrage scheme and they were told that their claims would be considered when land under that scheme was granted ?

(e) And is it a fact that when these sepoy have now applied for land under the Sindh Barrage scheme they have been told that Bombay and Punjab sepoy alone are eligible for this land ?

(f) Will Government state why the people of Merwara who furnished the highest percentage of fighting men in the whole of India are being debarred from all award of land, while sepoy from other provinces are given agricultural land ?

**Mr. G. M. Young :** (a) and (c). Under the Special War Reward Scheme, land in the Punjab, as in other provinces, was granted to Indian officers and other ranks of the agricultural class, who distinguished themselves in the Great War, or to the heirs of deceased soldiers of that class. The majority of grantees were Punjabis, but the Punjab Government, as a special case for the purpose of the scheme, accepted in addition as colonists, residents of the Delhi Province, the North West Frontier Province, the country beyond that province, Kashmir, and the Indian States in the Punjab. Where no land was available cash rewards were granted.

(b) No, Sir. I know of at least one† district which furnished a higher percentage.

(d) The Government of India have no information.

(e) The Bombay Government have imposed the condition that colonists in the Lloyd Barrage Scheme must be residents of the Punjab, Delhi or the United Provinces and belong to the agricultural classes.

(f) I would ask the Honourable Member to refer to my replies to parts (a), (c), and (d). I would add that land is not being given free to any military grantees in the Sindh Barrage colonisation area.

### APPOINTMENT OF A WHOLE-TIME SUPERINTENDENT OF EDUCATION FOR AJMER-MERWARA.

130. \***Rai Sahib Harbilas Sarda** : (a) Is it a fact both Delhi and Ajmer are under the direct administration of the Government of India and that both the provinces contain approximately the same population, Delhi having 488,188 and Ajmer-Merwara 495,271 ?

(b) Is it also a fact that, while, taking the year 1928-29, in Delhi 65.4 per cent. of the boys of the school-going age attended school, in Ajmer only 27.9 per cent. did so ?

(c) Is it also a fact that, while in Delhi, enrolment of boys in Municipal schools of Delhi went up six times from 1,468 in 1922-23 to 8,549 in 1928-29, the enrolment in Ajmer rose only from 6,610 to 10,524 ?

(d) Are Government aware that, out of a total population of 2,25,705 females in Ajmer-Merwara, only 1,395 girls are under instruction, giving a percentage of 0.621 ?

(e) Is it also a fact that the number of primary schools for girls in Ajmer-Merwara decreased from 12 in 1921-22 to 7 in 1926-27 and the expenditure on these schools went down from 10,595 in 1921-22 to 6,909 in 1926-27 ?

(f) Will Government state if this "deplorable state of affairs", to use the words of the last Quinquennial Report on Education in Ajmer-Merwara, is due to the fact that the Officer, who is Superintendent of Education both for Ajmer and Delhi, lives out of Ajmer-Merwara and only pays occasional visits to Ajmer ? If not, to what is it due ?

(g) Are Government aware that the people of Ajmer-Merwara think that the first necessity of Ajmer in the matter of education is to have a full time fully qualified educational officer as Superintendent of Education, Ajmer-Merwara to organise education in its various grades and especially of girls in the province of Ajmer without avoidable delay ?

(h) Are Government aware that both the local Administration and the people of Ajmer-Merwara think that the appointment of a single Officer as Superintendent of Education for Delhi, Ajmer, and Central India with Headquarters at Delhi, is highly detrimental to the educational interest of Ajmer-Merwara, and that the educational needs of the people of Ajmer-Merwara can never be properly looked after by an officer who *does not live all the year round* in Ajmer ?

(i) Do Government propose to consider the question of appointing, as soon as possible, a whole time Superintendent of Education for Ajmer-Merwara only ?

**Sir Frank Noyce** : (a) Yes

(b) The percentages enrolled were 77 and 35, respectively.

(c) The figures given for Delhi relate to municipal board primary schools. The corresponding figures for Ajmer-Merwara are 301 and 783, respectively.

(d) The figures quoted are for 1926-27. In 1928-29, the number of girls under instruction increased to 3,252, being 1.3 per cent. of the population.

(e) Yes ; but the decrease is only nominal as three of the schools were converted into middle schools and two small schools were amalgamated with a central girls' school at Ajmer.

(f) In the quinquennial report referred to by the Honourable Member, the backwardness of girls' education in Ajmer-Merwara is stated to be due in large part to purdah restrictions, early marriage, lack of demand for the education of girls and the want of a separate female inspecting agency.

(g) and (h). No.

(i) There is a whole-time Assistant Superintendent of Education for Ajmer-Merwara and Government trust that when a whole-time Superintendent of Education for Delhi, Ajmer-Merwara and Central India is appointed in the near future the administration of education in these areas will considerably improve.

**Rai Sahib Harbilas Sarda :** Does the Honourable Member think that 1.3 per cent. of the girls being educated is a proper proportion in Ajmer-Merwara when in other provinces it is ten or 12 times higher ?

**Sir Frank Noyce :** I agree with the Honourable Member that the proportion is not satisfactory.

**Dr. Ziauddin Ahmad :** It was stated that the Superintendent would be appointed at an early date. May I ask what is the definition of " at an early date " ? Will he be appointed in 1930 ?

**Sir Frank Noyce :** I hope so, Sir.

#### COLLECTION OF WATER IN THE BISLA TANK AT AJMER.

131. **\*Rai Sahib Harbilas Sarda :** (a) Is it a fact that water is allowed to collect in the Bisla tank at Ajmer only for three months after the rains for the benefit, and at the sole request, of the Bombay, Baroda and Central India Railway Officers to help the wells in their compounds, and then drained off ?

(b) Are Government aware that the revenue authorities of Ajmer opposed this request of the Railway authorities to let the water collect in the tank as being ruinous to the owners of land in the bed of the lake ?

(c) Is it also a fact that the railway authorities agreed to pay compensation to such owners of land for the injury done to them by the accumulation of water in Bisla ?

(d) Do Government propose now either to stop collecting water in the Bisla, or make the railway authorities pay proper compensation to the owners of land in the bed of the Bisla tank ?

**Mr. A. A. L. Parsons :** I have made enquiries from the Agent of the Bombay, Baroda and Central India Railway and will communicate with the Honourable Member in due course.

#### INVIDIOUS DISTINCTIONS AMONGST EXAMINEES FOR SELECTION GRADE POSTS IN THE POSTS AND TELEGRAPHS DEPARTMENT.

132. **\*Mr. Saradindu Mukerjee :** (a) Is it a fact that, in the last selection grade examination held by the Director General of Posts and

Telegraphs, a distinction was made between officials below 40 years of age and above, by which the former were compelled to appear in four subjects, and the latter in two only ? If so, will Government kindly state the reasons justifying such a new departure in the matter of examination ?

(b) Is it a fact that the examination was postponed on more than one occasion before it was finally postponed *sine die* ? If so, will Government kindly state the reasons ?

(c) Were any complaints received that the time allowed for preparation was inadequate in the case of those persons who had to appear in four subjects ? Is it also a fact that such examinees were denied any extension of time by the Director General though appealed to do so ? Will Government please state the reason for such denial ?

**Mr. H. A. Sams :** (a) Yes. The examination was the first of its kind and the distinction was made with a view to avoid hardship to the senior officials who, on account of their age, might perhaps have found it difficult to prepare for the examination in the time allowed.

(b) The Honourable Member is referred to the reply given to parts (b) and (c) of Mr. C. S. Ranga Iyer's unstarred question No. 245 in the Legislative Assembly on the 20th February, 1929.

(c) Yes. It was not considered necessary to grant an extension since the examination related in the main to matters with which the candidates were familiar and men of under 40 years should have had little difficulty in preparing for the examination in all four subjects in the time available. Moreover, two of the four papers were to be answered with the help of books.

#### REDISTRIBUTION OF AREAS OF THE ORIYA-SPEAKING PEOPLES.

133. **\*Mr. B. N. Misra :** (a) Are Government aware of :

- (i) the recommendations of Mont-Ford Report in 1919 " that a sub-province for Orissa should be formed at no distant date " ;
- (ii) the recommendations of the Simon Commission " that the question of redistribution of the areas of the Oriya speaking peoples will be first considered " besides the long standing agitation of the Oriyas and promises by Government in the same matter ?

(b) If the answer to part (a) is in the affirmative, will Government be pleased to state :

- (i) whether they intend to make a redistribution of the Oriya speaking areas on the existing materials before them, collected during the last 30 years ; or
- (ii) whether they propose to appoint a fresh committee of officials and non-officials to inquire into the same ; or
- (iii) whether, in the latter case, Government are prepared to name the personnel and appoint such a committee immediately to begin their work ?

**The Honourable Mr. H. G. Haig :** (a) (i) and (ii). Government are aware of the references to Orissa in paragraph 246 of the Joint Report, and of the recommendation of the Indian Statutory Commission that the

Boundaries Commission should be set up to investigate the main cases, including Orissa, in which provincial readjustment seems called for.

(b) The recommendations of the Commission are now being considered by Government. In the meantime I regret that I am unable to make any statement in reply to the points raised in this part of the Honourable Member's question.

**Dr. Nand Lal :** Is there any definite date on which these boundaries will be settled and its recommendation will receive appreciation ?

**The Honourable Mr. H. G. Haig :** No, Sir. No definite date can be fixed for such a decision until the matter has been further considered.

**Dr. Nand Lal :** May I ask when that matter will be considered ? May I venture to ask the exact date when consideration will be extended to this matter ?

**The Honourable Mr. H. G. Haig :** As I have already informed the House, the Government of India are giving the most intense consideration to the whole question.

**Mr. B. N. Misra :** May I ask the Honourable Member whether at any rate it will be done before the proposed Government of India Act is introduced in the House of Commons ?

**The Honourable Mr. H. G. Haig :** I am afraid I cannot give any definite assurance on that point until we explore the matter further.

**Dr. Ziauddin Ahmad :** Will the fixing of the boundaries of the North West Frontier Province form part of the terms of reference to this Commission ?

**Mr. Gaya Prasad Singh :** That question does not arise out of this.

**The Honourable Mr. H. G. Haig :** I was not aware that the question of the boundaries of the North West Frontier Province was in issue.

#### SELECTION GRADE POSTS OF ACCOUNTANTS AND ASSISTANT ACCOUNTANTS IN HEAD POST OFFICES.

134. \* **Mr. A. H. Ghuznavi :** (a) Is it a fact that the Director General, Posts and Telegraphs, laid down the principle, as far back as 1927, of appointing passed accountants only to selection grade posts of accountants and assistant accountants in Head Post Offices ?

(b) Is it a fact that the Government of India are in agreement with the principle mentioned in part (a) ?

(c) If the answers to (a) and (b) are in the affirmative, will Government be pleased to state whether the selection grade appointments of accountants or assistants have been filled up by passed accountants in (i) Head Post Offices in India (including Burma), and (ii) also in the Calcutta General Post Office ?

(d) If the answer to part (c) be in the negative, will Government be pleased to state why it is not possible to transfer unpassed accountants, holding these posts, to the general line in the same grade ?

(e) Is it a fact that the post of accountants and assistant accountants in the selection grade do not by themselves constitute a separate cadre ?

(f) Is it a fact that the Director General, Posts and Telegraphs, has issued orders for rotation of charges at regular interval and that no official can claim to remain in a particular appointment indefinitely ?

(g) If the answers to parts (e) and (f) be in the affirmative, will Government be pleased to state why the unpassed accountants have been allowed to hold the posts of accountants and assistant accountants in selection grades in (i) any Head Post Office in India (including Burma), and (ii) also in the Calcutta General Post Office even after the issue of the recent orders of the Government of India on the subject ?

**The Honourable Sir Joseph Bhore :** Information on some of the points referred to has been called for. As soon as this is received a reply will be given to the whole question.

#### SIEGE OF DEHRA ISMAIL KHAN BY THE POLICE AND MILITARY.

135. **\*Dr. Nand Lal :** (a) Is it a fact that a portion of Dera Ismail Khan town was besieged completely by police and military from 1st to 4th June, 1930, and that no body was allowed to go from one street to another ?

(b) Is it also a fact that the aforesaid action was taken under section 144 of the Criminal Procedure Code ?

(c) Is it a fact that the local Bar at Dera Ismail Khan made representation that the action, mentioned above, was illegal ?

(d) Will Government be pleased to state as to what action has been taken against the officials concerned of Dera Ismail Khan for putting peaceful citizens of that town in trouble by the act described in clause (a) above ?

**The Honourable Mr. H. G. Haig :** (a) No. One portion of the Dera Ismail Khan city was isolated from the rest in order to prevent the inhabitants from taking unlawful processions to other areas.

(b) Yes.

(c) Not so far as is known.

(d) The action was taken under the law and the question therefore does not arise.

#### OVERCROWDING OF THIRD AND INTERMEDIATE CLASS CARRIAGES ON THE NORTH WESTERN RAILWAY.

136. **\*Dr. Nand Lal :** (a) Is it a fact that there is considerable overcrowding in third class passenger trains over the North Western Railway ?

(b) Is it a fact that there is overcrowding in the intermediate class in some of the mail trains over the North Western Railway ?

(c) If so, do Government propose to remedy this overcrowding ?

**Mr. A. A. L. Parsons :** (a), (b) and (c). A census of passengers on trains was taken by the North Western Railway in November, 1929. It was found that on 6 regular trains third-class carriages were frequently overcrowded. Out of the 679 occasions on which a census was

taken, overcrowding in inter class carriages was found four times. The Agent of the North Western Railway reported in January, 1930, that steps were being taken to remedy overcrowding by attaching extra carriages or, where this is not practicable, by restricting passengers holding tickets up to 50 miles travelling by certain trains on sections where overcrowding occurs. I am having a copy of this question and answer sent to the Agent, North Western Railway.

**Dr. Nand Lal :** May I ask why concession in summer season between Lahore and Simla which was in vogue in previous years has been stopped by the Railway Department this year ?

**Mr. President :** I do not think this supplementary question arises out of the question which the Honourable Member has put.

#### PAUCITY OF LETTER BOXES IN SIMLA.

137. **\*Dr. Nand Lal :** (a) Is it a fact that some of the important suburbs of Simla are without letter boxes, although a large number of tax-payers reside in those localities ?

(b) Are Government prepared to provide at least one letter box in every important suburb of Simla ?

**Mr. H. A. Sams :** (a) No.

(b) Letter boxes have already been provided in localities where they are needed and where there is a demand for them. No complaints have been received regarding a lack of letter boxes in important suburbs of Simla.

#### CONVEYANCE FACILITIES BETWEEN NEW AND OLD DELHI.

138. **\*Dr. Nand Lal :** (a) Is it a fact that there is no tram or bus service in New Delhi or between New Delhi and Old Delhi ?

(b) Will Government be pleased to state whether the question of providing regular tram or bus service in the above mentioned town is receiving Government's consideration ?

**Sir Frank Noyce :** (a) and (b). The Honourable Member's attention is invited to the reply given to question No. 69, asked in the Legislative Assembly by the Revd. J. C. Chatterjee on the 21st January, 1930. The position has not changed since then.

#### MEDICAL ATTENDANCE FOR GOVERNMENT SERVANTS IN SIMLA AND DELHI.

139. **\*Dr. Nand Lal :** (a) Will Government be pleased to lay on the table a statement showing the names of all the medical officers specially deputed to attend on Government servants at Simla and Delhi, together with the hours and places fixed for free consultation ?

(b) Is it a fact that some of the medical officers at Simla have taken their residences at out of way places and have fixed very inconvenient hours for consultation when the Government servants are in offices ?

(c) If answer to part (b) be in the affirmative, are Government prepared to issue instructions that such medical officers should either



attend in the Ripon Hospital or fix consultation hours before 10 A.M. and after 5 P.M.?

**Sir Frank Noyce :** (a) A statement giving the information required by the Honourable Member has been placed in the Library of the House.

(b) No.

(c) Does not arise.

#### APPOINTMENT TO THE INDIAN SERVICE OF ENGINEERS OF STUDENTS OF THE THOMASON CIVIL ENGINEERING COLLEGE.

140. **\*Dr. Nand Lal :** (a) Is it a fact that up to 1927 ten appointments used to be guaranteed, every year, to top students of the Thomason Civil Engineering College and they used to be appointed direct in the Indian Service of Engineers after passing their final examination ?

(b) Is it a fact that in 1928 only the first three boys got direct employment in the Indian Service of Engineers ?

(c) Is it a fact that, in 1929, it was announced by the Public Service Commission that a competitive examination for the Indian Service of Engineers will be held ?

(d) Will Government be pleased to state whether any such competitive examination has since been held or not ?

(e) If the answer to part (d) is in the negative, will Government be pleased to explain why, recently, the Secretary of State made thirteen direct appointments instead of recruiting from the Thomason Civil Engineering College ?

(f) Will Government be pleased to state as to whether, and if so, when, the rule and practice of guaranteeing posts and giving direct appointments (in the Indian Service of Engineers) to the top successful boys from the Thomason Civil Engineering College will be restored ?

**The Honourable Sir Joseph Bore :** (a) The number of appointments which used to be guaranteed to the Thomason Civil Engineering College, Roorkee, up to the year 1927, was 9 and 10 in alternate years, but, as two appointments were usually allotted to the Indian Railway Service of Engineers annually, the number of recruits taken from the college for the Indian Service of Engineers was 7 and 8 in alternate years.

(b) Yes.

(c) Yes.

(d) Yes, a competitive examination was held in February, 1930.

(e) Does not arise. I do not know to what thirteen appointments by the Secretary of State the Honourable Member refers.

(f) The system of guaranteeing posts in the Indian Service of Engineers to the students of certain engineering colleges in India was abolished as there were certain serious difficulties inherent in the system, and it is not proposed, at any rate at present, to revive it.

**Dr. Nand Lal :** May I venture to ask what were these serious difficulties alluded to by the Honourable Member ?

**The Honourable Sir Joseph Bhore :** There were many considerations, but I hope my Honourable friend will agree with me that competition is *primâ facie* a better system.

ORDINANCE AGAINST PICKETING FOREIGN CLOTH SHOPS.

141. **\*Sir Cowasjee Jehangir :** (a) Are Government aware that the picketing of foreign cloth shops has been going on in the Indian part of the City of Bombay for some weeks ; that latterly picketing was extended to the principal European shops in the Fort area ; that very soon after the latter shops were subjected to picketing, Ordinance No. 5 (Prevention of Intimidation Ordinance) was put into force on Monday, June 16th, by arresting the pickets ?

(b) Are Government aware that, before this Ordinance was put into force, very little inconvenience was caused to the public in the Fort area by the pickets, and that the European shops lost little or no custom due to such picketing ? -

(c) Are Government aware that, from Monday, June 16th, large crowds have been collecting outside the shop of Whiteaway Laidlaw & Co., Ltd., on Hornby Road, to witness the arrest of the pickets, and it is alleged that a large number of innocent people were assaulted by the police on Monday, June 16th, without apparent provocation ?

(d) Are Government aware that the names and addresses of a large number of such persons have appeared in the public press, with the names of respectable witnesses of such assaults ; that many of these assaults were committed at a considerable distance from the premises of Whiteaway Laidlaw & Co., and that an Indian shopkeeper was actually assaulted in his own shop ?

(e) Will Government be pleased to state whether this Ordinance was put into force in the Fort area of Bombay at the instance of the Government of India under their powers of superintendence, direction and control or of the Local Government ?

**The Honourable Mr. H. G. Haig :** I am glad that the Honourable Member has given me an opportunity of dealing with a matter which I know has given rise to a good deal of feeling. The replies to his question are as follows :

1. (a) Yes.

(b) The Government of India understand that picketing in the Fort Area commenced about the 6th June. They have received no special information showing the extent to which the picketing achieved its object of interfering with legitimate business.

(c) and (d). The Police on several occasions have had to disperse crowds which had collected in connection with the picketing, and I understand that on some occasions certain persons who had no connection with the disturbances received injuries.

(e) The Ordinance was extended to the Bombay Presidency at the request of the Local Government, and was applied by them to Bombay city under the authority thus conferred upon them. The Government of India are fully in accord with the action taken by the Government of Bombay.

**Dr. Nand Lal :** In cases in which, according to the admission of Government, innocent persons, who were not concerned in the picketing, received injuries, have Government taken any effective measures so that this practice may be abolished and policemen may not behave like this in future ?

**The Honourable Mr. H. G. Haig :** I think I have already assured the House that I have no doubt that the Bombay Government are doing what they can to prevent any recurrence of such incidents.

**Mr. H. P. Mody :** Are Government aware that, during the mill strike last year, picketing accompanied by considerable violence was systematically carried on and nothing was done to put a stop to it, in spite of repeated representations ?

**The Honourable Mr. H. G. Haig :** I have not in my recollection at the moment precisely what happened. I think I myself was on leave in England at the time.

**Sir Cowasji Jehangir :** Are Government aware that, due to these assaults on innocent people on the 16th June, the reaction of public opinion has been of such a nature that the recurrence of such assaults is bound to drive thousands of people into the camp antagonistic to Government and to force them to resort to violence, which will result in serious bloodshed ?

**The Honourable Mr. H. G. Haig :** I think the position of Government was made sufficiently plain in the debate the other day, and I can assure my Honourable friend that Government are fully aware of the state of feeling in Bombay as explained by him.

**Mr. Gaya Prasad Singh :** Is it because the picketing of foreign cloth shops touches the pockets of vested interests in England that this Ordinance against picketing has been promulgated and applied to Bombay ?

**The Honourable Mr. H. G. Haig :** No, Sir. It was in defence of the ordinary rights of the public to be allowed to do what they please.

**Mr. Gaya Prasad Singh :** May I know why peaceful picketing unaccompanied by violence has been prohibited by the Ordinance ?

**The Honourable Mr. H. G. Haig :** The matter was fully explained in His Excellency's statement, which accompanied the issue of the Ordinance.

**Mr. M. R. Jayakar :** Are Government aware that Congress volunteers have been arrested even before they molested any purchaser for merely standing at the doors of foreign cloth shops ?

**The Honourable Mr. H. G. Haig :** I am not aware that any action has been taken which is not justified under the law, and if volunteers have been arrested in conditions which did not justify their conviction, presumably they would not have been convicted by the Court.

#### PROVISION OF ELECTRIC LIGHTS AND FANS IN THE RAILWAY FROM DOHAD TO MUTTRA.

142. \***Mr. A. H. Ghuznavi :** (a) Are Government aware that the first mixed train numbered 35 in the time table running 437 miles at a

stretch from Dohad to Muttra on the Bombay, Baroda and Central India Railway has no electric lights or fans in the first and second class carriages ?

(b) Are Government prepared to take steps at an early date to rectify this position and provide electric lights and fans ?

**Mr. A. A. L. Parsons :** Government are aware that a few first and second class carriages on the Bombay, Baroda and Central India Railway, which are nearing condemning age but are still fit to run, are still lighted by gas, as it would not be economical to incur the expense of putting electric installations into stock which is likely to be broken up in a short time. I presume the mixed train mentioned by the Honourable Member is one on which such carriages are used. But it is the desire both of Government and of the Railway Administration to replace gas by electricity on all carriages as soon as possible.

#### LAW DEGREES RECOGNISED BY THE ALLAHABAD HIGH COURT.

143. **\*Mr. Gaya Prasad Singh :** (a) Is it a fact that the High Court of Allahabad does not recognise the degree of Bachelor of Laws of the Delhi University for the enrolment of pleaders under the said High Court ? If so, why ?

(b) Is it a fact that the Allahabad High Court recognises the law degrees of Calcutta, Dacca and Patna Universities for the enrolment of pleaders ?

(c) Are Government aware that the non-recognition of the law degree of the Delhi University by the Allahabad High Court operates as a serious hardship upon those persons who have taken their law degree from the Delhi University, but are not allowed to practise under the Allahabad High Court ?

(d) Will Government kindly explain the reason for this differentiation between the law degrees ; and do they propose to take necessary steps to redress the grievances of those persons of the United Provinces, who have taken the law degree of the Delhi University, but are not allowed to practise in their own province ?

**The Honourable Mr. H. G. Haig :** The authority to make rules regarding the qualifications and admission of pleaders in the courts subordinate to the Allahabad High Court is vested in that Court under section 6 of the Legal Practitioners Act, 1879. The Government of India have no precise information on the point.

**Dr. Nand Lal :** Can successful candidates appear in any special tests so far as the enrolment of advocates or vakils under the Allahabad High Court is concerned ?

**The Honourable Mr. H. G. Haig :** As I have said, the Government of India have no precise information on the point. The rules are made by the Allahabad High Court.

**Mr. Gaya Prasad Singh :** Sir, I do not wish to ask question No. 144 and I do not want that the answer should be on the record. So I will proceed to ask question No. 145.

†144. \*

### EXCLUSION OF INDIANS IN ADVERTISEMENT FOR ASSISTANT SURGEONS.

145. **\*Mr. Gaya Prasad Singh :** (a) Has the attention of Government been drawn to an advertisement published in the *Pioneer*, dated the 9th April, 1930, over the signature of Lieut.-Colonel H. E. Stangerleathes, I.M.S., Deputy Director General, Indian Medical Department, New Delhi, inviting applications for admission into the Assistant Surgeon Branch of the Indian Medical Department ?

(b) Will Government kindly explain why "candidates must be Europeans or Anglo-Indians" ? Why have Indians been excluded from admission ?

(c) What are the names of the candidates so far admitted under the terms of the advertisement quoted above ?

**Mr. G. M. Young :** (a) Yes.

(b) As the Honourable Member is aware, the Indian Medical Department is recruited from Europeans and Anglo-Indians only.

(c) A statement is laid on the table.

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### *List of Candidates selected for Admission as Medical Students.*

L. E. Chaves, E. N. Plomer, C. B. J. Norris, Cyril McArthur Hogg, C. S. Gomez, L. C. Emmett, Cyril Andrade, C. E. J. Frederick, G. J. Nicholas, E. W. Shillong, A. P. Maruff, J. O. Perrier, A. W. M. Garrad, J. A. Bassett, D. C. Mayberry, V. C. D. Sausman, D. St. Louis Little, B. G. Bamford, A. D. McLaughlin, F. G. L. Brafield, H. Maher, W. Ward, D. D. G. Passanha, S. F. D'Costa, G. A. Burby, V. A. H. MacInnis, C. J. D. Netto and A. F. S. Chatelier.

### WITHHOLDING OF A TELEGRAM IN CHAMPARAN.

146. **\*Mr. Gaya Prasad Singh :** (a) Is it a fact that the following telegram despatched by Pandit Prajapati Misra (Champaran) to Babu Rajendra Prasad, on the 10th April, 1930 : "Bipin Babu marched 14 miles. Unique enthusiasm. 3,000 volunteers enrolled so far information received. Collections going on", was withheld by the telegraph authorities as objectionable ?

(b) What is the objectionable feature of this telegram, and who is responsible for withholding it ? Has the charge of the telegram been refunded to the sender ?

**Mr. H. A. Sams :** (a) and (b). I have instituted enquiries and will reply to the Honourable Member when I am in a position to do so.

### USE OF INDIAN LANDING GROUNDS BY A FOREIGN AIR SERVICE.

147. **\*Mr. Gaya Prasad Singh :** (a) Will Government kindly state if the British Government have given permission to Dutch airmen to use landing grounds in India for the regular Amsterdam-Batavia Air Service ? If so, was it with the consent of the Government of India ?

(b) Why has a foreign air service been given the right to use regularly landing grounds in India ; and what, if any, will this foreign Air Service give as charges for the use of the landing grounds in India ? What is the total amount of charges so far collected from the Dutch, or

any other foreign air service for using landing grounds or obtaining any other facilities in India ?

**The Honourable Sir Joseph Bhore :** (a) Yes.

(b) Under the convention relating to the Regulation of Aerial Navigation dated 13th October, 1919, to which both India and the Netherlands are parties, contracting States undertake, in time of peace, to accord freedom of innocent passage above their territory to the aircraft of other contracting States, provided that certain conditions are observed. Landing and housing fees in accordance with the scale for the time being in force will be payable. Charges amounting to Rs. 456 in respect of the trial flights carried out in 1929 have already been preferred.

**Mr. Gaya Prasad Singh :** May I now why this House was not consulted before giving permission to a foreign airship company to establish a regular service in India ?

**The Honourable Sir Joseph Bhore :** My Honourable friend is under a mistake. There is no question of a foreign company establishing a service in India. It was a trial flight carried out from Holland to Dutch Java. There is no question of the establishment of a company to operate flights between any two places in India.

**Mr. Gaya Prasad Singh :** May I take it that the Dutch Company has not been given permission to establish a regular service in India ?

**The Honourable Sir Joseph Bhore :** Certainly not.

**Dr. Ziauddin Ahmad :** Will the Honourable Member consult the Assembly before giving permission to any foreign power ?

**The Honourable Sir Joseph Bhore :** I cannot bind myself to do that, but any expression of opinion by this Assembly will be most carefully considered by the Government of India.

#### CONTRIBUTION TO THE PRESS OF A LETTER ON MARTIAL LAW BY A MILITARY OFFICER.

148. **\*Mr. Gaya Prasad Singh :** (a) Are Government aware that a letter signed " C. Turner, Major, for Brigadier General Staff, Southern Command ", was published in certain Anglo-Indian newspapers towards the close of May last, in which the writer discussed some controversial political questions relating to the administration of martial law in Sholapur ?

(b) Who is the writer of this letter, and what are his antecedents ?

(c) Do Government propose to take any steps against Government servants publicly discussing controversial political questions in contravention of the Government Servants Conduct Rules ?

**Mr. G. M. Young :** (a) Government have seen the letter in question.

(b) The officer who signed the letter, as is apparent from the first part of my Honourable friend's question, is a Major on the General Staff of the Southern Command. The letter issued on the responsibility of the Southern Command.

(c) Government see nothing objectionable in the subject matter of the letter, which was not, incidentally, intended for publication; but they are considering the question whether there was a technical irregularity in the circumstances of its issue. I may add that military officers are subject in this respect not to the Government Servants Conduct Rules, which are civilian rules, but to similar provisions contained in the King's Regulations and the Regulations for the Army in India.

**Mr. Gaya Prasad Singh :** May I take it that high officers of Government are entitled to enter into highly controversial political topics in the public press while the lower grade members of the services are prohibited from doing so ?

**Mr. G. M. Young :** Is my Honourable friend referring to military officers ?

**Mr. Gaya Prasad Singh :** Yes, Sir.

**Mr. G. M. Young :** There is no distinction between what higher military officers and lower military officers may do.

#### SPECIAL ALLOWANCE PAID TO CERTAIN NURSES IN BURMA.

149. **\*Lieut.-Colonel H. A. J. Gidney :** (a) Is it a fact that lady nurses of the Q. A. I. M. N. S. doing duty in Burma are in receipt of a special Burma allowance—*vide* the Government of India's letter No. 2804/1/A.G.-10 (A.D.-2), of the 18th January, 1929 ?

(b) Is a similar allowance granted to members of the Indian Medical Department employed in Burma ? If not, why not ?

**Mr. G. M. Young :** (a) Yes.

(b) No, because it has never been represented that the basic pay of officers and warrant officers of the Indian Medical Department requires to be supplemented to meet the cost of living in Burma.

#### CHARGE FOR ELECTRIC INSTALLATION IN QUARTERS OF MILITARY ASSISTANT SURGEONS.

150. **\*Lieut.-Colonel H. A. J. Gidney :** (a) Is it a fact that Military Assistant Surgeons of the Indian Medical Department are called upon to pay for the electric installation in their quarters ?

(b) Is it a fact that each time a newcomer enters these quarters he is called upon to pay a similar demand ? If so, why ? Are Government prepared to remedy this position ?

**Mr. G. M. Young :** (a) and (b). No capital charge is levied, but Military Assistant Surgeons, whose pay exceeds Rs. 400 a month, are required to pay rent for the electric installation in their quarters so long as they occupy them. The last part of (b) does not arise.

**Lieut.-Colonel H. A. J. Gidney :** Will the Honourable Member inform this House whether this Electric charge is confined to Indian medical men or whether it applies to other Department's Warrant Officers ?

**Mr. G. M. Young :** I should have to ask for notice of that question.

ARRESTS AND CONVICTIONS IN CONNECTION WITH RECENT POLITICAL DISTURBANCES.

151. \*Dr. Nand Lal : (a) Will Government be pleased to state how many persons were arrested throughout India in the present civil disobedience campaign ?

(b) How many of these arrested were convicted ?

(c) What is the approximate number of the persons arrested and convicted in each province ?

(d) How many ladies were arrested and convicted throughout India in the present struggle ?

**The Honourable Mr. H. G. Haig :** I would refer the Honourable Member to the reply given by me to Mr. S. C. Mitra's question No. 19. I lay a statement on the table giving the figures of convictions by provinces. I regret that I have no information regarding the number of arrests.

*Statement showing number of convictions in connection with the Civil Disobedience Movement from the 6th April to 15th June, 1930.*

Madras	..	..	1,229
Bombay	..	..	761
Bengal	..	..	1,157
United Provinces	..	..	493
Punjab	..	..	68
Burma	..	..	..
Bihar and Orissa	..	..	483
Central Provinces	..	..	10
Assam	..	..	40
North West Frontier Province	..	..	91
Delhi	..	..	45
Coorg	..	..	..
			<hr/> 4,377 <hr/>

**Dr. Nand Lal :** May I ask for information in regard to the arrest of ladies ?

**The Honourable Mr. H. G. Haig :** I think I promised yesterday to obtain information regarding convictions of ladies : I think it would be very difficult to get satisfactory figures of arrests.

**Dr. Nand Lal :** Will you kindly fulfil your promise within two days ?

**The Honourable Mr. H. G. Haig :** That, Sir, I am afraid I cannot undertake.

ALLEGED PLEDGES GIVEN BY SIR NORMAN BOLTON AT PESHAWAR.

152. \*Dr. Ziauddin Ahmad : (a) Is it a fact that Sir Norman Bolton, late Chief Commissioner of North West Frontier Province, gave an undertaking to the representatives of Peshawar that no person would be prosecuted for any offence done in connection with the disturbances on the 23rd April ?



(b) Is it a fact that Sir Norman Bolton declared that liquor shops will be closed for two months ?

(c) Have the successors of Sir Norman Bolton, honoured the pledges ? If not, why not ?

**The Honourable Mr. H. G. Haig :** (a) No. The Honourable Member has in mind perhaps the undertaking given by Sir Norman Bolton that any person who gave evidence before any Committee of enquiry, that may be appointed, would not be prosecuted on the basis of that evidence.

(b) No.

(c) Does not arise.

**Dr. Ziauddin Ahmad :** Was this the assurance given by Sir Norman Bolton to a deputation of the members of the Municipal Committee of Peshawar ?

**The Honourable Mr. H. G. Haig :** That is, I think, the assurance that I mentioned here, that nobody who gave evidence before any committee of inquiry would be prosecuted on the basis of that evidence. As a matter of fact, so far as I know, nobody has been prosecuted merely for participation in the riots.

#### FIRING AT A FUNERAL PROCESSION IN PESHAWAR.

153. **\*Dr. Ziauddin Ahmad :** Is it a fact that the funeral procession allowed by the Deputy Commissioner on 31st May, was fired at by the military ? What was the reason for it ?

**The Honourable Mr. H. G. Haig :** The Honourable Member is referred to the reply given by me to part (c) of Mr. S. C. Mitra's question No. 94.

#### ESTABLISHMENT OF A HIGH SCHOOL FOR GIRLS IN THE NORTH WEST FRONTIER PROVINCE.

154. **\*Dr. Ziauddin Ahmad :** Is there any high school for the education of girls in the North West Frontier Province ? If not, are Government contemplating to establish a high school ?

**Sir Frank Noyce :** The answer to the first part of the question is in the affirmative. The second part does not arise.

#### REMISSION OF LAND REVENUE IN THE NORTH WEST FRONTIER PROVINCE.

155. **\*Dr. Ziauddin Ahmad :** (a) Are Government aware of the remissions granted by the Punjab Government in land revenue in the seven Western districts of the Punjab according to the undertaking given by the Revenue Member in the Legislative Council in August, 1921 ?

(b) Has the Frontier Province got any Legislative Council where the question of reassessment and reduction of land revenue may be discussed ?

(c) If the answer to part (b) be in the negative, will Government be pleased to mention the authorities or officers who discuss and decide the question of reassessment ?

(d) Do Government contemplate remitting land revenue in each tehsil of the settled districts of the North West Frontier Province ? If so, when and how much ?

**Sir Frank Noyce :** (a) Yes.

(b) No.

(c) The officers concerned with the process of reassessment are the Settlement Officer, the Revenue Commissioner and the Chief Commissioner. The orders passed by the last named officer are final, subject to the confirmation of the Governor General in Council.

(d) I would refer the Honourable Member to the assurance given by the Chief Commissioner in reply to a deputation which waited on him recently that the land revenue, water rates and local rates in the North West Frontier Province will not be, on the whole, higher than those obtaining in the Punjab and that the reassessment proposals of the Peshawar district will be re-examined in the light of the Punjab Land Revenue (Amendment) Act. The Peshawar district is the only district in the province which has come under resettlement since 1921.

**Dr. Ziauddin Ahmad :** May I ask the Honourable Member to define the words "on the whole" used in his answer ?

**Sir Frank Noyce :** I am sorry I did not hear the Honourable Member.

**Dr. Nand Lal :** May I ask if any practical step has been taken in connection with the remission of land revenue in the North West Frontier Province—specially the settled districts ?

**Sir Frank Noyce :** No, Sir ; the question does not arise in the case of the districts which are not under resettlement ; it is only in connection with the Peshawar District, which is at present under resettlement, that the question of re-examining the assessment in the light of the Punjab Land Revenue (Amendment) Act arises. I think I am correct in saying that the other districts in the North West Frontier Province come under resettlement in the course of the next few years.

**Dr. Ziauddin Ahmad :** The Honourable Member said that the assessment will not be "on the whole" higher than the assessment in the Punjab. I should like to know what is the meaning and significance of the words "on the whole".

**Sir Frank Noyce :** For that, Sir, I should have to refer to the Chief Commissioner himself.

#### DROPPING OF BOMBS ON ENEMIES FROM AEROPLANES.

156. **\*Dr. Ziauddin Ahmad :** Was the question of throwing bombs from aeroplanes on enemies, who do not possess any aeroplanes, ever discussed in the League of Nations ?

**Mr. G. M. Young :** A proposal that the contracting parties should undertake generally not to launch weapons of offence of any kind from the air by means of aircraft was discussed and rejected by the preparatory Commission for the Disarmament Conference, but I can trace no proposal to prohibit the use of aircraft for bombing enemies who do not possess aircraft.

### RECRUITMENT OF HEADS OF DEPARTMENTS IN THE NORTH WEST FRONTIER PROVINCE.

157. **\*Dr. Ziauddin Ahmad** : Are the Heads of Departments in the Frontier Province recruited from persons who have experience of the administration of the Province ?

**Mr. E. B. Howell** : In general the answer is in the affirmative. Amongst the qualifications which determine selections for appointment as Heads of Departments in the North West Frontier Province, a knowledge of local conditions and experience of the Provincial administration naturally ranks high.

**Dr. Ziauddin Ahmad** : May I ask whether the Inspector General in the North West Frontier Province had any experience of the province ?

**Mr. E. B. Howell** : Which Inspector General ?

**Dr. Ziauddin Ahmad** : The Inspector General of Police.

**Mr. E. B. Howell** : I understand he had no previous service in the province.

### RECRUITMENT OF MUSSALMANS IN THE POSTAL SERVICE IN THE UNITED PROVINCES.

158. **\*Dr. Ziauddin Ahmad** : Has the Director General of Posts and Telegraphs issued any circular that not more than 14 per cent. of Mussalmans be recruited in the Postal Service in the United Provinces ?

**Mr. H. A. Sams** : No.

**Dr. Ziauddin Ahmad** : I was given to understand that there was this circular. Is it correct that no such circular was issued ?

**Mr. H. A. Sams** : I have already told the Honourable Member that I have issued no such instructions.

### POST OFFICE CASH CERTIFICATES.

159. **\*Dr. Ziauddin Ahmad** : (a) What is the total amount of investment in Post Office Cash Certificates in the year 1928-29 ?

(b) What is the amount of interest Government paid in the year 1929-30 for investment in Cash Certificates ?

(c) What is the rate of interest which Government actually pays on Cash Certificates ?

(d) Are Government contemplating the issue of Cash Certificates of smaller amount ?

**The Honourable Sir George Schuster** : (a) The nett amount of money added to the total of Post Office Cash Certificates outstanding in 1928-29 was Rs. 1,60,50,000. The total outstanding at the end of this financial year was Rs. 32,30,26,000.

(b) The total amount of bonus paid on Cash Certificates paid off during 1929-30 was Rs. 73,06,000.

(c) The rate of interest now being allowed on new Cash Certificates works out at  $5\frac{1}{2}$  per cent. compound interest if the certificates are held for the full period of five years. If they are repaid earlier, the rate is lower, i.e.,  $4\frac{1}{2}$  per cent. if held for four years,  $4\frac{1}{4}$  per cent. if held for three years,  $3\frac{7}{8}$  per cent. if held for two years and  $3\frac{1}{8}$  per cent. if held for one year. No interest is paid if the certificate is cashed within a year.

(d) The matter is under consideration.

**Dr. Ziauddin Ahmad :** Has the Department ever worked out the actual rate of interest paid on Cash Certificates—not the rate on paper—and I think if that is worked out it will not be more than  $3\frac{1}{2}$  per cent. ?

**The Honourable Sir George Schuster :** It is a little difficult to understand what the Honourable Member means by the actual rate of interest paid. It would not really be possible to know the actual amount of interest paid until all the Cash Certificates were paid off, and the whole practice of issuing Cash Certificates had been stopped. No final calculation can be made until the whole transaction is wound up. One reason for that is that Cash Certificates, if held till maturity, are renewable, and in order to calculate the amount of interest paid it would be necessary to know what is the final effect of a Cash Certificate renewed again and again after five years. It is impossible to make any calculation on the basis suggested by the Honourable Member, and all we can do at present is to get figures of the actual bonus paid in each year. At the same time, as the Honourable Member is aware, we have adopted a rough and ready basis for calculating the amount of interest due each year, and provision has been made in the Budget of this year on that basis. That, however, does not represent interest *paid*, but what we estimate will be a fair calculation of the interest which is accruing.

#### INCORRECT CENSUS OF ANGLO-INDIANS.

160. **\*Lieut.-Colonel H. A. J. Gidney :** (a) Has the attention of Government been drawn to page 42, paragraph 60 of Volume I of the Report of the Statutory Commission, regarding the incorrect census of the Anglo-Indian community ?

(b) If so, have Government considered the question of issuing orders, through the Railway Board, to all railway officials, and also to the heads of the various Departments of the Government of India, requesting them to co-operate more closely with the census officers on the day the census is taken ?

(c) If the reply to part (b) is in the negative, what steps do Government propose to take with a view to eliciting an accurate census of Anglo-Indians ?

(d) Are Government aware that many Anglo-Indians return themselves as Europeans in the Railways and other Government Departments in India ? If so, what action do Government propose to take in order to prevent Anglo-Indians in Government service from returning themselves as Europeans ?

**The Honourable Mr. H. G. Haig :** (a) Yes.

(b) Suitable instructions have been issued as to the desirability of co-operation between railway officials and Government officials generally, and the Census authorities.

(c) Does not arise.

(d) The answer to the first part of the question is in the affirmative. For the coming census instructions have been issued that as far as practicable the enumeration of Europeans and Anglo-Indians should be carried out by trained enumerators, who should, wherever possible, be Europeans or Anglo-Indians.

#### IMPORTATION AND SALE OF SPURIOUS DRUGS IN INDIA.

161. \***Lieut.-Colonel H. A. J. Gidney** : Will Government be pleased to state what advance it has made in respect to :

- (a) preventing the sale of spurious drugs in India ;
- (b) alterations of the Sea Customs Act to prevent the importation of spurious drugs into India ;
- (c) the introduction of the Poisons and Pharmacy Act in India ;  
and
- (d) the introduction of a Mental Deficiency Act in India ?

**Sir Frank Noyce** : (a) to (c). The Government of India, after consulting Local Governments, have appointed a small committee to enquire into questions relating to the importation, preparation and sale of impure drugs and chemicals and to make recommendations as to the measures required to prevent adulteration and fraud. The Committee will also enquire into the necessity for legislation to restrict the profession of pharmacy to duly qualified persons.

The matters referred to by the Honourable Member will be considered when the Committee's Report has been received.

(d) This subject is primarily one for Provincial Governments under the Devolution Rules, though the general question of the treatment of mental defectives has for some time been under the consideration of the Government of India. The enactment of legislation on the lines suggested would involve the establishment of special institutions at very great expense, which considerations of economy preclude at present.

**Lieut.-Colonel H. A. J. Gidney** : In reference to the Honourable Member's reply to part (a) of the question and considering the fact that this matter has been under discussion for two years, will he kindly inform this House, how long it will take the Government to come to a final decision ?

**Sir Frank Noyce** : I have informed the Honourable Member that a Committee has been appointed to inquire into the matter. They will shortly commence work, and have been requested to submit their Report at the earliest possible date. Government will then deal with the recommendations contained in that Report as expeditiously as possible.

**Lieut.-Colonel H. A. J. Gidney** : With reference to the Honourable Member's evidence before the Public Accounts Committee in which it

was stated that the Reports received from Provincial Governments did not corroborate my charges of a large sale of spurious quinine, will Government please place on the table the correspondence between the Provincial Governments and themselves on this matter ?

**Sir Frank Noyce :** I gave no evidence before the Public Accounts Committee on this matter, Sir. As regards the Honourable Member's request that the correspondence should be laid on the table, I will examine the point and see whether there is any objection to that or not.

**Lieut.-Colonel H. A. J. Gidney :** In regard to operating the Sea Customs Act, will Government inform this House whether it is not possible to effect the stoppage of importation of spurious drugs into Indian ports by giving specific orders to the Customs Department ?

**Sir Frank Noyce :** I must ask for notice.

**Lieut.-Colonel H. A. J. Gidney :** Will Government please inform this House what they have done.....

**Mr. President :** Kindly proceed to question No. 162.

**Lieut.-Colonel H. A. J. Gidney :** Just one more question, Sir.

**Mr. President :** No debate is allowed on questions.

#### GRIEVANCES OF EMPLOYEES IN THE LUCKNOW DIVISION OF THE EAST INDIAN RAILWAY.

162. **\*Lieut.-Colonel H. A. J. Gidney :** (a) Has the attention of Government been drawn to the frequent complaints that have appeared in the Press and reports by the Railway Union to the Railway Board in regard to inequitable and invidious distinctions that are still being meted out between railway subordinates who were formerly employees in the old Oudh and Rohilkhand Railway (now East Indian Railway) and the former East Indian Railway subordinates serving in the Lucknow and Moradabad Divisions ?

(b) Is it a fact that the Labour Member of the Railway Board visited Moradabad in 1929 and inquired into a series of grievances of these employees ? If so, what was the result of this inquiry, and are Government prepared to assure this House that an early inquiry will be held regarding the present grievances in the Lucknow Division of the East Indian Railway ?

**Mr. A. A. L. Parsons :** (a) Government's attention has been drawn to a few such complaints.

(b) The Honourable Member's attention is invited to the reply given to starred question No. 896, on the 28th March, 1930, put by Maulvi Muhammad Yakub, on the subject of the enquiry made by Mr. Hayman at Moradabad. The Agent, East Indian Railway, will be asked to look into the complaints of the Lucknow Division.

#### APPOINTMENT OF OUTSIDERS TO GOVERNMENT OF INDIA OFFICES.

163. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Will Government please state if it is a fact that the last examination for the admission of outsiders to the Government of India offices was held by the Public Service Commission in 1926 ?

(b) Is it also a fact that candidates above a certain age limit are not admitted to the examination ?

(c) Are Government aware that the fact that no examination has been held for the last four years for outsiders has deprived a large number of candidates, that have become over-age during these four years, of the opportunity to compete for the appointments ?

(d) Is it a fact that since the 1st April, 1930, the vacancies intended for outside candidates (under the new system) are being filled only provisionally pending the result of the next competitive examination ?

(e) When do Government propose to hold the next competitive examination ? Do Government propose to relax the age condition in respect of those outside candidates that have become over-age since the last competitive examination was held ?

(f) Is it a fact that several *unexpected* vacancies occur in the Departments which are not intimated to the Public Service Commission in time and for which they have no outside candidates on their waiting list of candidates that have passed the competitive examination ?

**The Honourable Mr. H. G. Haig :** (a) Yes.

(b) Under the new rules, which come into operation from the current year, candidates for the first and second divisions must be over 20 and under 24 years of age when they sit for the examination, but the Public Service Commission are empowered to modify these age limits as they think proper.

(c) Yes.

(d) Yes.

(e) It is hoped that a competitive examination will be held towards the close of the current year. No relaxation of the age limit is contemplated in the interests of those who have not been able to appear by reason of no examination having been held since 1926.

(f) This occurs only in the case of temporary vacancies.

#### ADMISSION OF NON-GRADUATES TO THE EXAMINATION FOR THE FIRST DIVISION OF THE GOVERNMENT OF INDIA SECRETARIAT.

164. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Will Government please state if it is a fact that out of the candidates that passed the last departmental examination held by the Public Service Commission for the Government of India offices *more than half were non-graduates* ?

(b) Did the *non-graduates* pass by merit or by special concession ?

(c) Do Government propose to consider the question of removing the restriction against *non-graduates* for the examination for First Division of the Secretariat ? If not, why not ?

**The Honourable Mr. H. G. Haig :** (a) Yes.

(b) No special concession was given.

(c) No. Government consider that the possession of a degree or the Cambridge School Certificate should be the minimum educational qualifications of candidates to be admitted to this examination.

**EXAMINATIONS FOR APPOINTMENT TO GOVERNMENT OF INDIA OFFICES.**

165. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Will Government please state if they propose to make any change in the system or standard of examination for the Government of India offices ?

(b) If the reply to part (a) be in the affirmative, when do Government propose to make an announcement to this effect for the timely information of those concerned ?

**The Honourable Mr. H. G. Haig** : (a) and (b). I understand that the matter is under consideration by the Public Service Commission who will shortly publish full information regarding the syllabus and subjects of examination for recruitment by competition to such posts in the ministerial service as are likely to fall vacant before the 30th September, 1931.

**CANDIDATES OF 1922 FOR THE FIRST DIVISION OF THE SECRETARIAT.**

166. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Will Government please state if it is a fact that, for some years past, no distinction has been made by the Public Service Commission for the First Division of the Secretariat and Attached Offices in respect of educational qualifications or standard of examination ?

(b) Is it a fact that all those candidates who had originally passed for the First Division of the Attached Offices were recently declared to be qualified for the First Division of Secretariat also, *excepting* only those who had passed in 1922 ?

(c) Do Government propose to remove this restriction in respect of the candidates who passed in 1922 ? If so, when ? If not, why not ?

**The Honourable Mr. H. G. Haig** : (a) Yes.

(b) No declaration was made, but those candidates who qualified for the upper division in these examinations and were appointed in attached offices are eligible for appointment as assistants in the Secretariat.

(c) The Honourable Member is referring presumably to those who passed in the separate examination held for the recruitment of assistants in attached offices in 1922. I understand that the Public Service Commission have declared a few of them to be qualified for appointment to the first division of the Secretariat after considering the special circumstances of each case. Government see no reason to take the action suggested.

**MEMORIAL FROM THE OFFICE OF THE DIRECTOR GENERAL, INDIAN MEDICAL SERVICE AND OTHER ATTACHED OFFICES.**

167. \***Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Will Government please state if it is a fact that the office of the Director General, Indian Medical Service, and other Attached Offices of the Government of India submitted a memorial long ago for revision of their scale of pay ?

(b) What action has so far been taken on the memorial and what is its present stage ?



(c) Is it a fact that the Army Headquarters offices are allowed higher scale of pay? If so, why?

(d) Do Government propose to bring the Army Headquarters and Attached Offices on the same scale of pay?

**The Honourable Mr. H. G. Haig :** (a) A memorial was submitted last year.

(b) and (d). A final decision has not yet been arrived at.

(c) The rates of pay at Army Headquarters have always been somewhat higher than those prevailing in Attached Offices on the ground of the nature of the work.

**MEMORIAL FROM THE OFFICE OF THE DIRECTOR GENERAL INDIAN MEDICAL SERVICE AND OTHER ATTACHED OFFICES.**

168. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : (a) Will Government please state if it is a fact that the principle of "equal remuneration for similar labour" laid down by the Secretary of State and quoted in the memorial of the office of the Director General, Indian Medical Service, is followed by the Government of India in fixing scales of pay?

(b) Is it a fact that in pursuance of the same principle *equal rates* of pay are allowed to :

(i) *all* Departments of the Government of India ;

(ii) *all* Branches of the Army Headquarters ;

(iii) *all* Attached Offices ?

(c) Do Government propose to apply the principle *generally* to *all* the offices of the Government of India Secretariat, Army Headquarters and Attached Offices? Is it a fact that recruitment for *all* of these offices is made from the same class of people, by the same agency and through the same examination?

(d) Do Government propose to have this question thoroughly examined by the Retrenchment Officer or a special committee? If not, why not?

**The Honourable Mr. H. G. Haig :** (a) Yes.

(b) Yes, wherever the labour is similar.

(c) The answer to the first part of this question is in the negative and to the second part in the affirmative.

(d) No. The question has often been examined.

**BUSINESS DONE BY THE IMPERIAL BANK OF INDIA.**

169. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : Will Government be pleased to state :

(a) the total of the daily Government balances deposited with the Imperial Bank of India and the total interest earned by the Bank on such deposits during the last financial year ;

(b) the approximate value of the banking service rendered to the Government by the Imperial Bank ;

- (c) the amount of the public debt and securities managed by the Bank on behalf of
  - (i) the Government of India;
  - (ii) the Provincial Governments ; and
- (d) the total remuneration received by the Bank on account of the management of public debt and securities ?

**The Honourable Sir George Schuster :** (a) The total Government balance with the Imperial Bank of India is not calculated daily as the amount of work involved in bringing together each day the results of transactions at all branches throughout India would be considerable and no useful purpose would be served in making these calculations. The amount of the Government balance on Friday each week is shown in the weekly statement issued by the Imperial Bank of India and the amount of the closing balance at the end of each month is shown in a statement issued monthly by the Controller of the Currency. It is impossible to calculate accurately the amount of interest earned by the Bank on the Government balances as these deposits are merged with other deposits of the Bank for the purpose of their business and at certain periods of the year the Bank cannot employ its funds fully.

(b) It is impossible to assign a definite value in money to the banking service rendered to Government, but it is estimated that the actual cost to the Imperial Bank of maintaining the Government account is about Rs. 21½ lakhs per annum. In addition services on both sides are rendered, the value of which cannot be reckoned in money.

(c) (i) About 400 crores.

(ii) About 16 crores.

(d) About 7 lakhs.

#### MANAGEMENT OF THE IMPERIAL BANK OF INDIA.

170. **\*Maulvi Abdul Matin Chowdhury** (on behalf of Mr. S. C. Mitra) : Will Government be pleased to state whether Government have any right of intervention in the management of the Imperial Bank of India besides what is provided for in clause 14 of the agreement between the Secretary of State and the Bank ?

**The Honourable Sir George Schuster :** Government have the right of appointing the Managing Governors and nominating four unofficial members of the Central Board of the Bank. In addition the Controller of the Currency is an ex-officio member of the Central Board without a vote.

#### ELECTION OF MEMBERS TO THE GOVERNING BODY OF THE INDIAN RESEARCH FUND ASSOCIATION.

**Mr. President :** Members will now proceed to elect two members to sit on the Governing Body of the Indian Research Fund Association in place of Sir Purshotamdas Thakurdas and Dr. Moonje who have ceased to be Members of the House. There are four candidates whose names are printed on the ballot papers which will now be supplied to Honourable Members in the order in which I call them.

(The ballot was then taken.).

## THE HINDU GAINS OF LEARNING BILL.

**Mr. M. R. Jayakar** (Bombay City : Non-Muhammadan Urban) : Sir, I move that the Bill to declare gains of learning by a Hindu to be his separate property, as reported by the Select Committee, be taken into consideration.

This Bill, Sir, was introduced about a year ago in the Simla Session. It is a revival of an exactly similar Bill which was introduced about 30 years ago, about the year 1900, in the Madras Legislative Council by a lawyer of great eminence, Sir V. Bashyam Aiyangar, and the principle of the Bill, without tiring the patience of my non-lawyer friends here, is this—that all acquisitions made by a member of a Hindu joint family by the aid of the learning and of the education which he got with the help of the family funds will be declared his self acquired property, so that his widow and his daughter become entitled, in case he dies without a male heir, and not the joint family. That is the principle of the Bill. The main object of the Bill is to clear up the present difficulty and uncertainty of the law which causes very harassing and expensive litigation in the courts of India. Incidentally I may mention that my purpose also is to benefit the women heirs of the acquirer of the property. At present they do not get any share in such property because it passes into the hands of the Hindu joint family. They only get the right to reside in the family property and to be maintained out of that, and I am anxious that these gains and acquisitions made by a member of the Hindu joint family entirely with the aid of his brains and intellect, although he might have been educated with the funds of the family, should be regarded as self-acquired property. I shall explain the present law very briefly, so that Honourable Members may follow how far my Bill proceeds, because my Honourable friend to my right (Sir Hari Singh Gour) is going to contend, I imagine, that the Bill does not go far enough. I admit it does not go far enough, because I think it will be advisable in these days to proceed with such measures cautiously and not to take a big jump. The present law is this. If a member of the Hindu joint family is educated with the funds of the joint family, supposing he is sent to England to qualify for the Bar or for the Indian Civil Service, or any such examination, or is trained in India for any profession or career and then he acquires, with the aid of that education, any riches afterwards, all those riches, under the present law, become the acquisition of the joint Hindu family. The law will appear to my Honourable friends in clear light if they turn to a case which I have stated in my Statement of Objects and Reasons. I do not think Honourable Members have that Statement before them on the present motion, but I should like to call their attention to a specific case which shows the great uncertainty and also the unfairness of the law as it stands at the present moment. I shall quote from the Statement of Objects and Reasons to illustrate my point.

“ In a rich family the present law offers a premium to extravagance idleness and perpetual discord. Its injustice is manifestly galling. Take for instance a case in which a father has three sons and incurs the same expenditure on their education. He sends them all to England to be educated for the Indian Civil Service. One is successful, the other two fail. Of the two who fail, one takes to trade and the other is unwilling to do any work and remains idle. The trader earns a large fortune which the present law allows him to keep to himself because his education in England was for the Civil Service and not for trade, but out of the earnings of the civilian who became successful, two shares are claimed, one by the trader and the other by the brother who remains idle.”

This is the present law. I am giving a very typical case, and if I may say so without exaggeration, the present law offers a premium in favour of the drones of the family, and it is a great handicap on those who make a successful use of the family property. It practically tells them, "Because you have successfully used the family funds as against those who have successfully wasted the family funds, on that ground you must contribute all your wealth to the general funds of the family." I am not concerned with the morality of the question for the moment because we are not here sitting as a moral body or an ecclesiastical court. I am only concerned as a practical man with the great uncertainty of the present law and the expensive litigation which it causes. I will illustrate my point. Supposing a coparcener of this description earns money. I am taking a hypothetical case which very often occurs in courts. Supposing he goes to Bombay from the mofussil where the joint family lives, and is called to the Bar—I will take the case of the profession to which I belong. He earns a large income for say 25 years at the Bar and accumulates wealth, and the other members of the family, remain quiet during his lifetime and do not move at all. The acquirer is therefore quite secure in the feeling that, under the present law, after his death his income will go to his wife or to his daughter, or to whoever his heirs may be. The trouble however arises in most cases, if I may speak from my own experience, after his death. He dies in Bombay leaving say a few lakhs of rupees. The very next month his coparceners, who have been living absolutely idle or luxurious lives in the mofussil home, send a notice to the widow saying that all that property which the acquirer died possessed of in Bombay is joint family property and therefore the widow has no claim on that property, but is only entitled to a few *sarees* now and then and to go back to the village home of the family and to claim a residence there. The trouble invariably arises, except in a few exceptional cases, after the death of the husband of the widow, and then this poor widow is dragged into a court of law. She has possibly no knowledge of how the money was acquired; it might have been 25, 30 or 35 years ago and possibly no accounts were kept. The widow or the daughter, as the case may be, is absolutely defenceless. The coparceners file a suit and then generally, as my lawyer friends know, the matter is referred to a Commissioner as he is called, and the case drags on a most weary existence for, say, four or five years. My Honourable friends, who are lawyers, know the harassing nature of such litigation and the troubles the Hindu widow is put to on account of her having to be on the defensive. I will therefore read a few remarks from my Statement of Objects and Reasons in which I have stated this point in a nut-shell.

"The Bill will also have the effect of preventing an inquiry into the character of the education and the means by which such education was imparted. The difficulties of such an inquiry in any suit concerning the property of the acquirer are enormous, especially when it takes place after the death of the acquirer and many years after the completion of his education. In most cases, such an inquiry is very harassing, when conducted at the expense of the estate and with a helpless widow or daughter on the defensive."

I will mention one more point. According to the present rules relating to the giving of costs, even if the coparceners are not successful, unless the case was conducted in a very flagrant and obstructive manner, the costs may be decreed to come out of the estate. Therefore the coparceners feel more or less certain about the expenses of the litigation,

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even if they lose. That is the present law, and it is in consequence of this that I thought it desirable that this uncertainty and injustice of the law should be removed. Further I will tell my Honourable friends how the uncertainty is encouraged. I would draw attention to one aspect of the extraordinary rule differentiating between the acquisitions of general education as opposed to special education. A man can keep to himself property gained as the result of the acquisition of general education, but if the education proceeds further and becomes special or professional education, the acquisitions of such education are regarded as joint family property. Thus, if a man proceeds up to the B.A.—I am taking one of the standards of our Universities—with the aid of the general family funds, and he acquires any property for himself as a B.A., he can keep that to himself under the present law, but if he becomes an LL.B., which means two years more, if he goes to a law school and gets qualified as a vakil, or an advocate then all his acquisitions acquired thereafter become joint family property. The result is a mass of uncertainty as to what is expert education, special education, or technical education, as against general education. The words are extraordinarily difficult to interpret or explain because it will all depend upon the facts of the case. I will here read to my Honourable friends the following remarks from my Statement of Objects and Reasons which illustrate the difficulty of determining what in a particular case is special education and what is ordinary education.

“The standard of education varies in different localities, in different classes and different families. It is also shifting from time to time. What might at one time be regarded as extraordinary education becomes ordinary education after the lapse of some years, and what might be ordinary education in the case of a wealthy family would be extraordinary education in a family of scanty means. The result is a great uncertainty of the present law. It is impossible for any person who acquires property by his learning to feel any certainty that his earnings would be regarded as his own, and the uncertainty is greater if the distinction drawn between ordinary and extraordinary gains of learning is borne in mind.”

I may mention, if I do not tire too much the patience of my Honourable friends, that further difficulties arise consequent on the permutation and combination which takes place, with the result that, if I may say so without disrespect to the profession to which I belong, lawyers only prosper and families go to ruin. I am therefore anxious, Sir, that we should carry this remedial measure in the course of the day, and I am particularly anxious, now that we have had the benefit of an expert Select Committee to which my Honourable friend, the Law Member, belonged, and now that that Committee has practically approved the entire Bill and has made only a few amendments here and there, that this Bill should go through. I see that a very insidious amendment has been given notice of by my Honourable friend, Mr. Acharya, for circulating the Bill for eliciting opinion thereon. Now with great respect to him, I say that is an insidious amendment because the effect of that will be to kill the Bill. Honourable Members are aware that all Bills which are not passed during the tenure of this House will lapse, with the result that somebody else later on in the Assembly, either myself, if I happen to be there, or somebody else will have to revive the Bill. Therefore, the whole attempt on the part of my Honourable friend, Mr. Acharya, under the innocent guise of seeking to elicit public opinion, is to kill the Bill, and that will be the result if the House accepts his amendment. I should

have very gladly considered this amendment if the result of that had been to throw more light on it and not to kill the Bill entirely. I am aware that this Bill does not go far enough. For instance, as Dr. Gour will inform the House later on, it does not deal with the difficulty of the onus of proof. These are all technical questions and I do not wish to weary the House with them. I have left out these matters, important as they are, because I know one bite is enough at a time. If this Bill gets through, then we would have passed something which was before the public 30 years ago. This Bill, as I told my Honourable friends in my opening remarks, was introduced in the Madras Legislature by Sir V. Bashyam Aiyangar, a man of great distinction in those days and even now, whose memory is revered with all respect and honour by the profession of the law. He had brought forward this Bill. It passed the Legislative Council in those days, about the year 1900. I may be wrong by a year or two. Then it was not allowed to proceed further because in those days, 30 years ago, doubts were raised whether the times were appropriate and ripe for such a measure. Personal attacks were made upon Sir V. Bashyam Aiyangar on the ground that he was a member of a joint Hindu family. I am glad to say that I am not a member of a joint family and therefore not liable to be judged in that way. The result was that the Government then said that, having regard to the times, this Bill should not be allowed to become law and the Bill was vetoed by the Governor. Now, we have proceeded 30 years beyond that.

I will give my Honourable friends one more instance to show that we are not adopting any extraordinary principle contrary to the rules of the Hindu law. Now, take the hypothetical case which I gave to the Honourable House. Supposing a Hindu acquires property with the aid of such education, even under the present law he can ask for separation and the partition of the property, and no one can prevent him from doing so. And at that partition the other members of the family cannot insist that he must bring back or allow to be debited to his share, the money spent on his education. Nobody can make a claim like that; that is the law. It may seem to be a somewhat extraordinary law, but the fact is that nobody can prevent him from getting that partition and in that partition nobody can say that the money which was spent on his education should be debited to his account or should be brought into hotch-pot. That contention will not lie in the mouth of the family because that is not the law. The result is that only the more delicate-minded people suffer. The more selfish people, the moment they begin to acquire money, give notice that they want to be separated and the whole of the law is evaded. The Privy Council have made this process more easy by ruling that any unequivocal intention is enough to constitute a partition. The result is that more selfish people, the moment they are educated with the aid of the joint family, and see a prospect of making money or have made money, at once give notice for partition, with the result that they evade the division. The more cultured, the more affectionate and tender minded do not do that, with the result that, on their death, trouble arises and causes a great deal of litigation. As I said, the case is taken into a court and, like the old Chancery cases, of England, which became a scandal in ancient times, it does not emerge out of it for 6, 7 or 8 years. During this time a Receiver is generally appointed of the property and he allows a few rupees to the lady whose husband

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left several lakhs of rupees. The Receiver collects all the rents ; the widow is dispossessed and only gets a few rupees a month for her maintenance. This, Sir, is the present state of law.

Now, my Bill removes all these difficulties. I would like to invite Honourable Members' attention to clause 3 of the amended Bill which runs thus :

“ Notwithstanding any custom, rule or interpretation of the Hindu Law, no gains or learning shall be held not to be the exclusive and separate property of the acquirer merely by reason of :

- (a) his learning having been, in whole or in part, imparted to him by any member, living or deceased, of his family, or with the aid of the joint funds of his family, or with the aid of the funds of any member thereof, or
- (b) himself or his family having, while he was acquiring his learning, been maintained or supported, wholly or in part, by the joint funds of his family, or by the funds of any member thereof.”

The last case, as the House will observe, is most extraordinary. A man was sent to England for the purpose of education. He earned his own living and maintained himself and obtained his education. He came back, and made a large fortune. The claim was made on the most extraordinary ground that, while he was in England, and although his education there was acquired with moneys which he earned there, his wife and children in India were maintained during his absence with the aid of some funds belonging to a brother. Therefore, owing to this maintenance, all his future earnings became the joint family property. Sir, the doctrine has been pushed to such an extravagant extent and it has, of course, caused a great deal of irritation. I can say from my own knowledge of the members of a joint Hindu family and the way in which they live that there is a perpetual atmosphere of discord and suspicion, and subterfuges are adopted in order to conceal purchases and investments by the property being purchased in the name of some **benami** person in order to prevent any trace being left that the property was purchased with the funds of the acquirer. They adopt subterfuges of a most extraordinary kind and it is difficult in a court of law to unravel or unclot them except after a considerable amount of evidence, which means money. I can assure my Honourable friends that all this causes chronic discord and embitterment in joint Hindu families. I submit therefore that it will lead to great deal of amity and goodwill in the joint Hindu families if we could make two things clear in the present law. If Honourable Members will turn to sub-clause (c) of clause 2 they will find that I have removed all difficulties and uncertainties. It runs as follows :

“ ‘Learning’ means education, whether elementary, technical, scientific, special or general, and training of every kind which is usually intended to enable a person to pursue any trade, industry, profession or avocation in life.”

Therefore all these distinctions, whether they are special gains of general education or the special gains of extraordinary education, or the ordinary gains of such education, all these inquiries which take place in a court of law are in one sweep cleared away. There will now be no distinction between different kinds of learning and the process will be very much simplified.

So far I have dealt with the clauses of the Bill. This Bill was referred during the Delhi Session to a Committee consisting of the Honourable the Law Member, Mr. K. C. Neogy, Mr. N. C. Kelkar, Rai Sahib Harbilas Sarda, Sir Purshotamdas Thakurdas and myself. Honourable Members will agree that it was a very strong committee consisting mainly of lawyers. We purposely put in a business man (Sir Purshotamdas Thakurdas) and we went into this question very minutely. More than two sittings were held. Honourable Members will find that the Bill has emerged from the Committee with no alteration except one or two formal ones. The Select Committee says :

“ The only changes which we have introduced into the Bill are of a formal nature, not affecting the substance.”

In clause 3 they say :

“ 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.”

There is only one dissenting minute. Therefore, it is clear that the Bill has received the approval of a strong and representative committee which had good legal and business talent available at its disposal. The only point on which my Honourable friend, who is absent, Mr. Kelkar, differed in his minute was this. It is a very narrow point. I shall explain what that point is and why the Select Committee did not agree with Mr. Kelkar's view. Mr. Kelkar's point, as stated in this short minute, is that the man who is dealt with in this Bill, namely, the acquirer, the man who acquires riches with the aid of the joint family funds, ought to be made to pay back whatever money was spent on his education. That was Mr. Kelkar's point. At first sight it seems very equitable.

**An Honourable Member :** Why ? How is it ?

**Mr. M. R. Jayakar :** I say at first sight, it seems to be equitable, but considered in greater detail the difficulties are immense. First of all, I will say, it is not in conformity with the present law. As I told my Honourable friends, even under the present law, there is no obligation on the part of the acquirer to pay back the expenses of education. Even under the present law, as it stands, if the acquirer, chooses to claim a partition, the law will not oblige him to give back the money. Therefore, even under the present law, there is no equity that he should pay back the money. He has only to claim a partition and the law allows it, on the bases of the property as it exists. He takes the whole property including the amount spent on his education. That is the first point which has to be remembered ; the alleged equity is only seeming and not in accordance with Hindu law. Take the point further. Supposing the acquirer has the benefit of a maintenance allowance from his brother during the time he was being educated, the brother cannot ask for the return of the maintenance allowance spent ; he cannot get back the accumulated money that has been spent for his maintenance. If he claims partition under the present law, the brother cannot claim back this amount. All the acquirer has to do is to send a notice of partition, and he escapes with the whole of his earnings, including the money spent for his education. There is no obligation on his part to pay it back to the family. The Hindu law does not regard it as an equitable obligation. A greater difficulty which I want my Honourable friends to remember is that a contrary rule would cause harassment and litigation,



[Mr. M. R. Jayakar.]

which it is one of the objects of the Bill to prevent. Supposing the acquirer is dead and the case goes to a court of law. The Court will have to inquire as against his widow, firstly what is the amount spent on his education ? Secondly, how much of it was spent on his general education ; thirdly, how much of it was spent on his special education ; fourthly, how much of it was responsible for or was the direct cause of the money which he acquired or how much of it was the indirect cause ? This means a long and harassing enquiry which my Bill seeks to avoid. All such inquiries will be opened up if Mr. Kelkar's point is to succeed. Now, take a case where this enquiry goes to a court of law 25 years after the acquirer earned the money. Supposing a man lives for 30 years. The question does not arise during his lifetime. Thirty years later, the widow will have to prove by oral or documentary evidence—possibly no documents were made or they have been destroyed during these 30 years—what money was sent to her husband to England for education, what money was sent to him when he was studying in the Elphinstone College, how much of that was spent on expert education and all these things. Is it fair or just, I ask my Honourable friends, as men of common sense, that the widow should be put to all this harassing enquiry 30 years after ? The result of that will cause the mischief of feeding lawyers in court houses, which I am trying to avoid. I do not think my profession will feel very grateful to me for having brought this Bill before this House. I do not think it is necessary further to point out what the result will be if this House accedes to Mr. Kelkar's minute of dissent. All that I am trying to secure, namely, certainty and clearness of the law, all that benefit will be gone. Besides, as I said just a few minutes ago, that is not the principle which is accepted by the Hindu law, that the money spent on a coparcener's education is to be regarded as a debt which he is bound to pay. I submit, Sir, that this Bill may therefore be taken into consideration.

**Mr. M. K. Acharya** (South Acrot *cum* Chingleput ; Non-Muhamadan Rural) : Sir, I beg to move that the Bill, as reported by the Select Committee, be circulated for the purposes of eliciting opinions thereon.

My Honourable friend, Mr. Jayakar, with an amount of learning which he rightly exulted in displaying, and with an amount of ingenuity which he might well have utilised in a better cause, has been trying to mislead the House, and it falls to my unfortunate lot to place before the House some higher aspect of the duty of this House than he, unfortunately today, content to be a mere lawyer, has been calling upon us to discharge. He has been talking a great deal of the great many difficulties that lawyers and judges felt and so on and so forth. One admission he made and honestly made which startled me, which shook me, and it was this : that this Bill, not only this Bill, but this House is not concerned with the morality of the question, but only with the technical legality and the technical bearings of the law, cases real or possible.....

**An Honourable Member** : Did he say that ?

**Mr. M. K. Acharya** : I took down his exact words. He said, " We are not concerned with the morality of the question " as to what is

the relation of a man who is gaining through learning towards the family and what should be the relation of the man's earnings towards the family property. He distinctly said that we were not concerned with the morality of it. Possibly he is not concerned. But, Sir, I am concerned, and I beg this House to say that it ought to be concerned with the moral aspect of every Bill that comes before it. If the moral aspect is degrading, even if it is necessary to remove certain technical defects in certain places, we shall have to remove those defects without surrendering the moral principle. It is after all the higher purpose for which any law ought to be passed that should be examined in any Legislature. That the statement that we are not concerned with the morality of the question should come from the Leader of the Nationalist Party.....

**An Honourable Member :** He said for the moment.

**Mr. M. K. Acharya :** I hope, Sir, that my Honourable friend knows better the conscience of my friend over there, but I do not know. I am accustomed to hear people, especially lawyers—thank God, I am not one of them—talking about the immediate concern and things of that kind. Sir, I wish for a little moment we do take, as I said, a really larger view of our responsibilities.

Now, Sir, I do not deny that under the existing law there may be many difficulties. He is a better authority than I am to speak from practical experience of the law. There are probably cases of many individuals who gain large sums of money through their learning and are afterwards put to difficulties in sharing the gains of their learning with the members of their families. I am ready to admit that there must be many difficult cases ; I am ready to admit that there may be very many cases of great and real hardship. Admitting that is one thing, but admitting a few or even many cases will not justify a sweeping law which interferes with what I may call the basic principles of the joint family system. We know that the general trend of modern education is to disintegrate the joint family system. For good or for bad, we are all laying the axe at the root of the ancient Hindu family system and the ancient Hindu *dharma*. We have been trying to disintegrate the family and to destroy the *dharma*.

**Mr. President :** Order, order. I think the Honourable Member is moving his amendment that the Bill should be circulated for opinion. He is not opposing this Bill, and therefore on this motion he should confine himself only to giving reasons for which this Bill should be circulated for public opinion. He should confine himself to that one issue only.

**Mr. M. K. Acharya :** May I know under what rule I may not go into the principle of the Bill at this stage, because the Honourable the Mover went at great length to explain the principle ?

**Mr. President :** That time will come when the Bill is discussed at the consideration stage. Now the Honourable Member is moving his amendment and wants to show that the Bill should be circulated for public opinion. On this motion the Honourable Member should only confine himself to giving reasons why this Bill should be circulated.

**Mr. M. K. Acharya :** My reason is simply this that I want the principle of the Bill to go before the public at large not in the wrong form in which the Honourable the Mover has put it, but in the right form in which I think the Bill ought to be understood ; and therefore I am explaining how I understand the principle and how public opinion ought to be expressed on the principle of this Bill, which I say is to disintegrate the ancient Hindu family system more and more and very much more than it is being done now. That, Sir, is my point and the public cannot give their opinion if this Bill is passed now. And I cannot reasonably ask my colleagues here to support my humble motion as against a motion coming from such an authoritative source as the Mover of the Bill without explaining to them why I feel so strongly on the point that we must have very much more information about this and not take for granted as acceptable all that the Honourable the Mover has said. That is my point.

Now, Sir, the principle of the Bill is not simply to remove the few cases of doubt in the law. If that were so, I daresay the lawyers and courts would do it. As I understand it, it is firstly to disintegrate the ancient Hindu family system. Secondly, from the moral standpoint I consider that it is to make a man more and more of a brute concentrated in his own self, without thinking of his father or mother or sister, under whose love he was born and bred, those who gave him all their care and attention, fondled him in his early years, nursed him in his later years and went on looking after him and made him a man. All these people are nothing. His wife and children are everything to him and all his earnings will go to them. He would not care whether his father or mother or sister was starving, but all his earnings would go to his wife and children only—beautiful moral ethics that, indeed ! I can give many more cases than my friend has given. There have been specific cases in which men born in very humble families have had all the care and fondling attention bestowed upon them by their parents and relations, have been brought up and helped to attain very high positions in life, have been turned into great lawyers, even like my Honourable friend over there, and have earned large sums of money, and become great men entitled even Rajahs. And I know at least one case in which a man rose very high in life, lived all for himself and his wife and children only, and left his father to go about begging in the streets. And the father, unable to live, was forced to contract a little debt of Rs. 100, and a warrant for that amount was issued against him and the father at last went to the son's palace—he was himself in his old hut. The son declined to pay this amount of Rs. 100, saying that he had been paying him Rs. 10 every month, which ought to have been enough for him. And a far-off relation, from very shame that the father of such a big man should be arrested on a warrant of Rs. 100, gave him that money to clear the debt.

**Mr. President :** Order, order. The Honourable Member is an old Member of the House and he knows that when a Bill has been referred to a Select Committee the House accepts the principle of the Bill, and at this stage the principle of the Bill cannot be attacked. The Honourable Member is in his speech attacking the very principle of the Bill which I cannot allow him to do.

**Mr. M. K. Acharya :** Thank you, Sir ; it is very natural that my words should be very unpleasant. (Laughter.) However, truth is

truth, very often unpleasant. What I say is that these are facts on which the public have a right to think very leisurely, and the Bill was not circulated for opinion in the first instance. I was anxious to move that this Bill should be circulated for opinion at the last Session, and it was only to oblige my Honourable friend there that I did not move it then. But because I did not move it then, it does not mean that I forfeit my right under the rules to move it now. Because I thought that possibly the Select Committee might so draft the Bill as to free it from all possible objections. I now find that one member of the Committee, for whom rightly or wrongly I have greater respect than for others, has put in some of the objections which I should have thought of very strongly. A legally trained man like my Honourable friend over there cannot attach much importance to these objections, but a poor morally trained man like myself and others like myself will attach great importance to the dissenting minute of my friend, Mr. Kelkar. And because the Select Committee evidently failed to carry out my friend Mr. Kelkar's objections, and to make such alterations in the Bill as would have satisfied Mr. Kelkar, it is for us to take the same view as he did ; and it has unfortunately become necessary that I should raise this protest and say that the Bill must go to the public for opinion. My Honourable friend may pay great compliments to the members of the Select Committee and say that the Bill was very carefully considered in all its aspects and that it has come out with the full support of the Committee. But from the Report of the Select Committee I find that they did not evidently give much weight to Mr. Kelkar's objections. I have no doubt that Mr. Kelkar did put before the Committee his objections, which later on he was forced to put down in writing. If his objections in the Committee had been properly considered there would have been no necessity for him to write a minute of dissent at all, and because his objections were evidently brushed aside by the Committee, he had to put them down in writing.

**Mr. M. R. Jayakar :** Sir, I may inform my Honourable friend that a whole day was devoted to the consideration of the questions which Mr. Kelkar brought before the Select Committee.

**Mr. M. K. Acharya :** All the more pity that the Committee, in spite of a whole day's consideration, was not able to agree that there was a great principle involved in Mr. Kelkar's objection. Therefore my point is that it must go before the public and the public must decide whether the objections of Mr. Kelkar do deserve to be brushed aside in the manner in which the four or five other members of the Committee did brush them aside, in spite of a whole day's consideration. It is for the public to judge whether Mr. Kalkar was, after all, right in putting forward these objections before the Select Committee, or whether the other members of the Select Committee were right, even after a full day's discussion, in not taking note of Mr. Kelkar's objections. I can understand the reasons for this. Possibly the other members of the Committee were obsessed by what are called legal technicalities. That is the great difficulty in this life. When men become obsessed with legal technicalities they forget the demand of moral ideals. It happens every day in life. When a man becomes somehow concentrated on some particular point, that point becomes magnified out of all proportion and his whole mind becomes concentrated on that point.

[Mr. M. K. Acharya.]

Perhaps my friend thinks that, if this Bill is not passed, the heavens will tumble down upon us : I can very well imagine it, and that is what happens when there is over-concentration on a particular point and that is exactly the root cause of all the trouble in this world. One man seizes upon a phrase of a point and says that he will not be satisfied until he gains it, and all his life is given up to it—call it Dominion Status or self-determination : he wants it in a certain document and he concentrates upon getting it. Similarly, these lawyers, probably because they are lawyers, are over-obsessed by their legal difficulties, and do not probably pay as much attention to the moral side of the question. But, Sir, has the public no right to consider the Bill from the moral side ? I plead that the question is, above all, a Hindu question and it is for the Hindu public to decide ; this Bill is going to affect—as many other Bills coming up in the course of the day will—not other communities, but my unfortunate Hindu community ; it is going to affect my unfortunate community, in which there are leaders calling themselves Hindus but who do not know what the basic principles of Hinduism are, who have been so perverted by the denationalised foreign education they have got that they have forgotten what the basic principles of Hindu *dharma* are. Therefore, has not the Hindu public the right to know how this Bill is going to affect our Hindu *dharma* ? My friend, Mr. Amar Nath Dutt, is anxious to know what is my authority for saying that many of us do not know the meaning of Hindu *dharma* and that others besides myself are anxious to have their say upon this Bill before we proceed further with it. Let me read one or two sentences from an open letter on this subject of the relation between the general Hindu public outside, to whom I want this Bill to be referred, and the Anglicised, denationalised Hindus who are sitting by my side. (*An Honourable Member* : “ Question ”.) This is an open letter addressed by the Bharata Dharma Mahamandal to the political leaders of the country on behalf of Hindu India :

“ Formerly the word ‘ Hindu ’ meant one who believed in the sacred scriptures of the Hindus, and followed their injunctions as articles of faith. But now the term has acquired a different meaning. It is often used as a simple synonym for any Indian who is non-Muslim, and non-Christian ; and is often qualified with various adjectives. We thus read of orthodox Hindu, non-orthodox Hindu, Political Hindu, Reformed Hindu, Arya Hindu, Brahmo Hindu, and so on. All these, excepting the first, are new groups, each of them having its own creed, aims and methods of propaganda. These are not for mutual co-operation, not for maintaining their common inherited stronghold of Dharma in its original grandeur, nor for making only such repairs in that stronghold as may be necessary to suit changed time and conditions, without interfering with its original principle and design. They know not what mighty angelic hands had built that Dharmic citadel which in the main has stood the ravages of time, and stands still in utility and grandeur unsurpassed by that of any race, ancient or modern. In their shallowness and fury these qualified Hindus will fain efface, if they can, this mighty edifice from the map of India. Some of them with machine guns moulded in the Legislative arsenals of British India, some with sword and spear sharpened in separatist congregations and sabhas, some with match-box propaganda trying to inflame the passions of the ignorant and gullible—all want to demolish the mighty structure of Hindu India, planned in conformity with the highest laws of Nature, and embellished with the ripe experience of countless ages.”

**Sir Hari Singh Gour** (Central Provinces Hindi Division : Non-Muhammadan) : I rise to a point of order. You, Sir, have decided that the principle of the Bill having been accepted after its reference to Select Committee, it was not open to the Honourable Member to attack

the principle of it : in spite of your ruling, the Honourable Member is consistently and persistently attacking the principle of the Bill.

**Mr. M. K. Acharya :** I am not attacking the principle of the Bill, Sir, I am taking the view which many Hindus outside are entitled to take upon the manner in which the Bill and the provisions of the Bill are likely to affect the unfortunate Hindus who do not follow the lead in religious and social matters of the Honourable Mr. Jayakar or the Honourable Sir Hari Singh Gour ; and how those people look upon all such legislative measures which this House is considering, and how they will be affected by these provisions and not merely by the principle of this Bill. Now, Sir, this open letter says and rightly says :

“ —all want to demolish the mighty structure of Hindu India. . . . Yet every one is supposed to act *bona fide* (There of course I give credit to my friends), and believes that he is doing the right thing for the regeneration and unification of the Hindu people.”

That, Sir, is the view taken by the people outside of these measures ; and here is a measure of that kind. And I beg of you therefore to see that we have the opinion of those who are primarily affected by it. Hindu joint family members will be greatly affected by this Bill. Of course there are difficulties under the present law, but who knows there will not be greater difficulties if the present law be amended ? Which will be the lesser of the two evils ? That is not only for my friends here to judge or for me to prove, it will be a matter for the entire Hindu community outside to express its opinion upon.

I come to another point. This Bill, or something very much like it, was brought forward forty years ago in Madras by a gentleman who was even a greater lawyer than my friend over there—I mean the late Sir V. Bashyam Aiyangar ; and he was even more keen about it than my friend to-day is ; and yet the Bill brought by such a very distinguished lawyer and supported by very many other lawyers had to be withdrawn. Why ? Because public opinion in Madras was so strongly against it that, in spite of very many imperfections in the existing law, in spite of the very many hardships which the law at present inflicts upon members of the joint Hindu families, and in spite of the very many bad cases which have come before the courts, forty years ago public opinion was so strong that even a higher man than my friend, Mr. Jayakar, had to withdraw the Bill. Has public opinion really gone forward in favour of this measure ? That is all the question I ask. If that is so, if public opinion is going to welcome this Bill to-day, as it did not forty years ago, then I shall withdraw my objection. That is exactly the point. Mr. Jayakar has himself admitted that forty years ago public opinion was greatly against this Bill and this Bill had therefore to be withdrawn. . . .

**Mr. M. R. Jayakar :** My Honourable friend is not accurate ; I never said that the Bill was withdrawn ; it was vetoed by His Excellency the Governor of Madras.

**Mr. M. K. Acharya :** I am very glad of the correction ; it is a technical correction which I most thankfully accept. Public opinion was so strong that His Excellency the Governor recognised its importance and was prudent enough not to give to the Bill his assent ; and I wish His Excellency the Viceroy in this case, before allowing this Bill to come up here, had taken public opinion, even before allowing it to be introduced. But whatever that may be, the fact is there that the Bill was drafted

[Mr. M. K. Acharya.]

and it was before the public and the public opinion was so strongly against it that it was either not introduced or was not proceeded with or had to be vetoed—I do not care for these technicalities : the Governor, very rightly in response to public opinion, recognised that he ought not to allow the Bill to become law. The substantial question then arises : has public opinion now altered considerably, and will the general Hindu public, the orthodox Hindu public and the members of the joint Hindu families, who are going to be affected by this Bill, welcome this Bill to-day ? My friend will probably answer that the good people whom he represents will welcome the Bill, and the worse sort of people, whom I represent, will not welcome it and will raise a hue and cry ; but in any case let us have at least some kind of public support to this Bill—some measure of public opinion behind it ; and I ask you whether it is not the duty of this Legislature not to proceed with a Bill of this kind, especially the Members who do not happen to belong to joint Hindu families. What right have you to legislate for us and to force laws upon us—laws by which you yourselves are not affected ? You sit quite safe and you impose laws upon us, and make laws for others by the sheer accident that you happen to be Members of the Legislature, you impose laws upon people from whom you are quite different and whom you are not even prepared to recognise as eligible to give an opinion. Where is the righteousness of making laws like this ? In all charity, therefore, do not inflict laws upon people with whom you have no concern for whose joint family ideals you have probably no sympathy—do not for God's sake interfere. There is already enough bad feeling in the country, do not increase that bad feeling, this is not the time, this is not the day, we have a great many other things to engage our attention—very much more serious. My Honourable friend has himself admitted that, with all these imperfections, the Hindu law has been working for many years, and it is not as if, if you do not pass this law now, the heavens will tumble down. There might have been a few people who might have been harassed.....

**Mr. President :** Order, order. I cannot allow any violation of the rules. The Honourable Member has been from the very beginning opposing the principle of the Bill and it cannot be done at this stage.

**Mr. M. K. Acharya :** Sir I am not attacking the principle at all. What I am saying is that if we can wait a little bit longer and not pass this measure to-day we may be able to make some detailed alterations in the law acceptable to all. I am not attacking the principle at all.

**Mr. President :** The Honourable Member is altogether opposing the principle of the Bill.

**Mr. M. K. Acharya :** Can I not oppose the Bill or any provision of it, Sir ?

**Mr. President :** When the Honourable Member is moving his amendment, he must confine himself to the reasons he has to give for his amendment, and he cannot attack the principle of the Bill at this stage.

**Mr. M. K. Acharya :** My reasons are these for re-circulation of the Bill. I am stating that the Hindu community has a right to know what the provisions of the Bill are.....



**Mr. President :** That you have already said. What else has the Honourable Member got to say ?

**Mr. M. K. Acharya :** There is no particular hurry in passing this measure to-day. That is my next point. The present Hindu law has been getting on very well. We have been working fairly well with it in spite of all its imperfections ; and to-day, I say, there is no particular hurry for passing this Bill, and therefore the Bill can very well wait for some time more. Sir, my friend was telling me that I was making a very insidious motion. I am very frank, Sir. I do not think there is anything insidious in the amendment I am bringing forward ; there is nothing ingenious about it ; there is nothing covert about it. I simply want people to have their say ; I simply tell them how they will be affected. And as I said, if this Bill is not passed to-day, it will not be killed. My friend there will live long and I give him my Brahmin's blessings. He will come back to this Assembly with perhaps a larger following. If therefore this Bill is introduced with the support of public opinion from learned lawyers like himself, incorporating all the objections which Mr. Kelkar has raised, I hope he will be privileged in the next Assembly to get it passed with the support of public opinion. Let me assure my friend that, till then, the heavens are not going to tumble down. Whether I come to this House or not, certainly he is bound to come, and this Bill can very well be introduced in the next Assembly. Meantime, you can get public opinion instead of our thinking that all the legal genius of this country is confined to the few brains in this House and passing the Bill in such great hurry. Let us consult all the various legal geniuses in this country ; let us take their opinion, and let us consider how Mr. Kelkar's objections might be incorporated in this Bill as unfortunately the majority of the Select Committee were not able to incorporate them. Therefore, Sir, for these reasons, because the provisions of the Bill do make great inroads into the Hindu joint family system, because the provisions of the Bill are such as have not been unanimously agreed upon by the Members of the Select Committee, because the provisions of the Bill follow very closely another Bill which was introduced 40 years ago and against which public opinion in Madras was so strong that it had to be given up, because the Hindu community, who have a right to be consulted on this measure, have not been sufficiently consulted, I say that this measure should not be passed in a hurry as we are attempting to pass it. And lastly, Sir, because we have got many more important things engrossing our attention at the present time, and for God's sake let us not waste our time, let us not divert the attention of the House to all these small matters. I beg of this House to send this Bill for public opinion. Let us have better materials ; let us have larger opinions on which to frame this Bill and on which we can give our vote honestly with a full sense of responsibility, and not merely because some leader wants us to give our vote in this way or that way. I beg of this House, therefore, kindly to accept this motion that the Bill be sent up for public opinion and that the Hindu community, who will be primarily affected by this Bill, be given an opportunity to express their opinion to which they are entitled before a measure of this character is passed into law.

**Dr. Nand Lal (West Punjab : Non-Muhammadan) :** Sir, there is no doubt that this measure is one of those measures which can be characterised



[Dr. Nand Lal.]

as very important and of great usefulness to the Hindu community. The measure being so important because it will apply to the bulk of the people of this country, doubts naturally arise in the minds of every person in this House who has to perform his duty rightly.

(At this stage Mr. President vacated the Chair which was taken by Mr. Deputy President.)

The objections raised by the previous speaker have been occupying my mind very seriously, and after giving my thought to the *pros* and *cons* of the whole matter, I am driven to the conclusion that this measure deserves approbation at the hands of this House.

Sir, there are four phases from which this Bill can be looked at with a view to give a correct opinion on it. There is no doubt that, so far as the principle of the Bill is concerned, it has got the support of the majority of the members of the Select Committee, and their opinion deserves great respect. The four phases to which I want to advert are as follows. The first phase relates to the moral aspect. With great respect for my Honourable and learned friend, Mr. Jayakar, I differ from him when he says that morality is excluded altogether so far as the realm or domain of the law is concerned. However, differing from him, as I do in this view, I submit that, so far as the Hindu household social morality and social views are concerned, this Bill will, to a certain extent, create some sort of difference of opinion. It cannot be denied that orthodox Hindus will not be really happy to hear that this Bill is passed. There is no doubt about it, that there ought to be an element of morality, though it should not have the bulk of it when we are passing the law. Consequently, I submit, Sir, that the argument centring round the question of morality has not got immediate bearing, though, no doubt, it may have a remote bearing. Moral views are not to be expunged, they are not to be eliminated; they are not to be ignored. However, when we compare those arguments with the principles of the Bill, we are driven to this conclusion that we may bid good-bye to the too great claim of morality in view of the other advantages which will be derived by the public by this measure.

The second phase is equity. There is no doubt that the equitable phase requires equal deliberation. Equity requires that you, a member of coparcenery, have been educated from the money of the whole family; that the money of the family was spent on you, on your learning, learning as defined by this measure, and when you have attained your object, so far as learning and education are concerned, you have allowed yourself to be selfish, and you want to say now that the other members of the family have got no concern and you should have mastery over your entire earnings which will be acquired in consequence of the education imparted to you at the expense of the joint family moneys. This sort of criticism in the shape of equitable views could be advanced and deserves some appreciation, but not to such an extent that it should do away with this useful measure in the light of modern conditions. My Honourable and learned friend has already given cogent reasons in support of his motion and I need not repeat them. A man, who has acquired money in consequence of his learning and his education, is certainly competent, so far as the law is concerned, to make an application for partition. There is no law, whether

statutory or case law, which can prevent it. Thus so far as equity is concerned, so far as the equitable aspect of the case is concerned, it has not got much weight against the measure. The law will prevail, and equity will have to give in. Consequently, the second phase, which can be characterised as the equitable phase, cannot prevent us from considering this Bill. So far as it is concerned, the law, wholly and solely, and in its entirety, is in favour of this measure. This is a measure which is purely based on law.

The third phase is this, if this measure is considered and eventually passed into law, what effect will it have on the family and the manager of the family, or the *kartha* of the family, in connection with the imparting of education to the members of the coparcenary? This is a subtle point of great weight and importance. When a man, who has acquired education at the cost of the family money and has become a graduate, or a barrister, or an LL.B., or engineer, says, "I shall have the monopoly of the whole thing," it is a question which is really debatable and requires considerable thought and patience—no doubt about it. But there is an answer to it, and that answer is this. If any joint Hindu family will feel reluctant on that score, suppose there were four boys belonging to the family and the family was going to spend so much money on the education of one, and that one after having got the education says, "I shall be entitled to the whole of my earnings as the result of my education," then the other boys might sustain some monetary loss, and this idea will occur to the *kartha* or manager of the family. Therefore, this may discourage the love for giving high or costly education to the members of the coparcenary. I think there is some weight in this argument. This idea will occur to every thoughtful mind, but we have to see what is the eventual gain, what is the eventual profit, and then we are brought face to face with this conclusion that we have to put up with this sort of discouragement. Because, love for education will really have a victory over that sort of argument. Therefore, there is not much to fear so far as the four phases are concerned. My Honourable and learned friend, the author of this measure, has dealt with the subject very ably and has gone into the minutest details, and I do not desire to go into them again and to detain the House long. My submission is this. That my consideration of the *pros* and *cons* of this measure induces me to support this measure and go against the amendment and I hope that it, namely, the Bill will be considered by this House.

**Mr. C. V. Venkataramana Aiyangar** (Madras : Indian Commerce) : Sir, I have always thought that Members who come here newly should listen and learn and should not speak, especially in the first Session. But if I rise now, it is because my Honourable friend, Mr. Acharya, has called upon the orthodox Members of this House to declare their position. Sir, I am an humble orthodox Member like my Honourable friend, though probably I may not grow a beard. I am very much in favour of this Bill, and I feel that any attempt to shelve or delay it will certainly be dangerous. I do not know if Mr. Acharya commits the insult of saying that the late Sir V. Bashyam Aiyangar was not much more orthodox than himself. The whole orthodox community of Southern India, especially the Aiyangar community, would rise in revolt against my Honourable friend if he suggested that the late Sir V. Bashyam Aiyangar was not orthodox. (Mr. M. K. Acharya : "Question.") I know these "Questions". It is these questioning and doubting people that always create the trouble, but

[Mr. C. V. Venkataramana Aiyangar.]

I do say this, that so far as the late Sir V. Bashyam Aiyangar was concerned, he was one of the most orthodox men in Southern India, especially among the Aiyangar community. My Honourable friend wants to shelve this matter at this last stage when we all know that the Assembly is going to be dissolved, and his only object in moving this amendment is that the Bill should be wrecked. There must have been a number of previous stages when he could have moved this motion. There were a number of stages when he could have easily pressed his views. Does my Honourable friend think that nobody knew of this Bill? Was this Bill confined within the four walls of this House? It must have been published in every provincial Gazette, and in every language of every possible province, and if my Honourable friend kept quiet then as well as his so-called orthodox friends, they must thank themselves. From the beginning there seems to have been an unanimous opinion, in favour of this Bill and there seems to have been no objection from the orthodox section, and the country seems to have been in favour of this Bill. (*Mr. M. K. Acharya* : "No.") My Honourable friend did not raise these objections then. The Bill went before a Select Committee and it was before it for a long time and the Report of the Select Committee has been before the country for a long time. (*Mr. M. K. Acharya* : "No.") My Honourable friend referred to Mr. Kelkar. What does Mr. Kelkar say? With great respect to my Honourable friend, Mr. Kelkar says from beginning to end that he approves of the Bill. He postulates that the Bill is quite necessary; only he says that, in the interests of justice to the other members of the joint family, the acquirers should be made to pay the money that they had received from the joint family for education. My Honourable friend has taken the cue from that, and has given notice of a similar amendment, and his proper duty, his reasonable duty, and his sensible duty would have been to press that amendment if he cared. Probably he thinks that he cannot substantiate that. Further on, he said that the joint family would be dissolved by this course. I am exactly of the contrary opinion. Under the present law a member can dissolve the joint family if he likes as soon as he begins to get money. This measure will prevent such a disruption. ....

**Mr. Deputy President** : Is the Honourable Member likely to take long to finish his speech?

**Mr. C. V. Venkataramana Aiyangar** : Five or ten minutes.

**Mr. Deputy President** : If it is five minutes I shall allow him to go on; otherwise, I shall adjourn the House for Lunch.

**Mr. C. V. Venkataramana Aiyangar** : I shall take ten minutes, Sir. I think we had better adjourn.

**Mr. Deputy President** : This House stands adjourned till twenty minutes to three.

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

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

**Mr. C. V. Venkataramana Aiyangar** : When the House rose for Lunch, I was alluding Sir, to the statement made by Mr. Acharya that this

Bill would cause disruption to Hindu family life. I was rebutting it and saying that Mr. Jayakar's Bill would be one of those causes that would exactly prevent such disruptions. What now happens is that when a man begins to acquire property, he, under the law as it is, gives notice of partition to the members of the family. Nobody can say anything against it. Secondly, another thing sometimes happens unfortunately and that is that, when a person acquires money, he is afraid either of his old father or mother or other coparceners and what he does is that he executes documents for whatever he earns in the names of other people, such as his brother-in-law, his father-in-law and so on, with the result that it ends in litigation and it causes disruption of the family much more. Therefore Mr. Jayakar has done very well in pointing out in his Statement of Objects and Reasons that the object of this Bill is to continue the family, and I believe I am correct in saying—and I speak subject to contradiction—that Sir V. Bashyam Aiyangar said the same thing in his Statement of Objects and Reasons. I trust that this Bill may be passed to-day, so far as this Assembly is concerned.

I would just point out one or two more things. My friend, Mr. Acharya, referred to the Goddess of Morality. He has trampled the poor Goddess under foot. That is probably the reason, Sir, why my friend is very fond of lady picketers and they are so very fond of him as he invites the Goddess of Morality in connection with this Bill. I do not know what he means. Mr. Jayakar clearly stated that, in the interests of morality, this Bill should be passed. He referred to it more than once and at the same time he added that grounds of morality alone would not be sufficient. What he evidently meant was that there should be strong legal and social grounds, as well as moral grounds, and therefore, Sir, it is absurd to say that morality is against this Bill. Mr. Jayakar never admitted that and I do not think anybody can postulate that point. Then Mr. Acharya unfortunately referred to our family life and he said that our young men are so fond of their wives and children that they ignore their fathers and mothers and sisters. I do not know if that can be one of the reasons for sending this Bill for public opinion. What I would respectfully say is this. No father or mother who gives money for the education of their sons would ever dream that the money should be returned to them some years afterwards, and I do not think that any father educates his sons in the hope of a monetary gain at some future time. I may quote my own personal case. My father, who knew this bad law, did a very good thing. Though his whole property was self-acquired property, when he gave money for my special education, he gave it as a loan and when I began to earn he took back the money from me, thereby putting an end to the possibility of my being asked to pay to others practically everything that I earned later on. This Bill will prevent disruption of family life. It will prevent unnecessary litigation, and I think it is the duty of this House to prevent a very large number of persons from going to Court and ruining themselves. When I was practising,—I have given up practice during the last ten years and I do not know if things have gone worse in the interval—I knew of several cases which had come to Court. Nobody gained anything, and after a lapse of 30 or 40 years, there was the difficulty of getting reliable evidence. The parties become paupers by litigation, then they go out of the Courts. Therefore, in the interests of the economics of social life and of religious life, this Bill ought to be passed into law at once. If

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my friend, Mr. Acharya, has got fair and strong grounds for his contention, let him take the direct road. He knows that time is very short and therefore he wants to delay this motion by talking two or three times and wasting the time of the House. If he thinks that this Bill is unfair, immoral or anything like that, let him have a straight fight on that point. My friend, Mr. Acharya, is so fond of interviewing the Governor General and the Governor General is so fond of interviewing him. So, if he feels that this Assembly has done anything wrong in passing this Bill, it is open to him to interview the Governor General and tell him to veto this Bill. In any case we must pass this Bill to-day. I have only one word more to say. This Bill was introduced in the September Session last year and I do not think it lies in the mouth of anybody to say that the public have not had time to consider its provisions, and it is clear that what my friend, Mr. Acharya, wants is to prevent the passage of this Bill. Sir, I strongly oppose his amendment and I hope that the House will reject that and pass the Bill unanimously.

**Sir Hari Singh Gour :** I am afraid a somewhat misleading lead has been given in this case which has been treated as a measure of social reform or as a matter of morality. Sir, if there is any question of morality in this case, it is a case upon which it was the incumbent duty of the Government to take action immediately after they had read the judgment of the Privy Council in the leading case of *Gokal Chand v. Hukam Chand* reported in 2 Lahore page 40. Honourable Members are aware that the Hindu law has two conflicting texts on the subject of self acquisitions. One is that, all acquisitions which are the result of learning or the gains of science usually belong to the acquirer and the other text is that of *Yadnavalkyur*, that property acquired without detriment to the patrimony shall belong to the acquirer. Now, Sir, these two texts have given rise to a crop of conflicting cases and when Sir V. Bashyam Aiyangar introduced this Bill 40 years ago, the juristic notion of what was learning and science and how it would be contra-distinguished with the detriment of the patrimony was not clearly understood. In this judgment of the Privy Council, delivered in 1921, Their Lordships of the Privy Council made it abundantly clear that, so far as they were concerned, they did not see the distinction between learning and science. Let me give you their *ipsissima verba*—I read from page 51—and that would be my amplest justification for supporting this measure. This is what Their Lordships say :

“ It may be difficult to say now why the anomaly should have arisen, by which the gains of a man's own labour or of his own bargains are impartible, because they are the fruits of his own effort, while the gains of his science are partible, though they are the fruits of his effort too. In each case the member of the joint family is indebted to the family funds for something; in the former, for the nurture which has made him strong to labour, in the latter, for the professional education in addition which has made him also skilled in art. Conversely, the dull coparcener, who learns but turns his learning to poor account must share his gains such as they are, while his brother who learns without teaching and acquires professional skill by intuition only, keeps his greater gains for himself. All that can be said is that the rule, if really anomalous, is too old and well settled to be altered now.”

Their Lordships of the Privy Council have in unmistakable terms pointed out the anomaly that exists in Hindu law in making acquisitions of property as the result of personal effort as his own property, whereas if the gains are the gains of science, they are also his property, provided

they are not acquired in a particular manner without detriment to the patrimony. Now I think this doubt, that exists as to general education and special education, general education and technical education, is, as Their Lordships of the Privy Council pointed out, illusory, and therefore what the Honourable Mr. Jayakar has done is to remove this distinction which Their Lordships in this characteristic language have condemned as illogical and illusory. Now what is the net result of his Bill? The net result of his Bill is that, while all law up to date is clear, that if one of the members of a joint family receives general education and as a result of that general education, acquires wealth, then all that wealth becomes his self-acquired property, but Hindu law, as it was understood (but as it has been misunderstood as Their Lordships of the Privy Council pointed out in 1921), drew a distinction that, if that education was of a technical or professional character, then in that case the acquirer does not get the property as his own. Mr. Jayakar wants to make it absolutely clear that, in both cases, the property shall be the property of the acquirer, and in doing so, he is giving effect to the just criticism of Their Lordships of the Privy Council. If therefore I support his Bill, I am not supporting it on any moral or social reform grounds. I am doing so because I feel that it was incumbent on Government in 1921, when they received this authoritative pronouncement from the highest Court of appeal, pointing out the anomaly and the illogical distinction that exists between these two texts of Hindu law, to take action and rectify that anomaly by an amending Act or by an Act intended to clarify the law. Now that settles one question. Mr. Jayakar's Bill settles the first point, but the anomaly to which Their Lordships of the Privy Council referred would still remain, and I think it is my duty to point out to the Honourable the Law Member and his officers of the Legislative Department that they should take early action to remove other anomalies of a cognate character, without which the removal of this anomaly would be insufficient. Honourable Members are aware that I have pointed out that there are two texts of Hindu law—one regarding the gains of learning and science and the other regarding acquisitions made without detriment to the patrimony. Now let me simply illustrate my point. A father has got ample funds, and out of those ample funds he sends his son to England, and he comes back as either a barrister or a member of the Indian Civil Service and he accumulates considerable wealth. This wealth, according to the conflicting texts of Hindu law, as understood by the Privy Council in 1921, and to which they give effect, would become the joint property of the family, but as Their Lordships of the Privy Council said, "We do not know why it becomes the property of the joint family, but this is your law and we administer it as such, but at the same time we point out the anomaly". Now take the other case, of a father, a very poor man, who is ambitious and has got a clever son. He sells his fields and his house and raises money, and with that money he sends his son to England, and he then comes back as a member of the Indian Civil Service or as a member of the bar and similarly accumulates much wealth. That is acquisition of wealth with detriment to the patrimony. What is the result? The result is not stated in this Bill, and I am afraid when this Bill is the subject of interpretation in the Courts, there will arise conflicting views again, and if I had got a hand in the drafting of this Bill, I would have easily amended it so as also to exclude cases of the kind I have mentioned. As it is, the Select Committee have drafted this Bill and sub-clause (a) of clause 3 says, "With the aid of the joint funds of his family". Now my fields and my house are equally very

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important joint funds. If I sell them, then it is to the detriment of the family, and another conflicting text will immediately come into operation to defeat this law. I do not wish to be over-critical, but I am raising an objection which has been raised by Their Lordships of the Privy Council themselves. The matter would be clearer if Honourable Members will turn to the statement contained at pages 45 and 46. There is a short passage and it will repay perusal: I shall read it. Their Lordships say :

“ The distinction between acquisitions made by a coparcener solely by his own exertions and those which have involved the use of the patrimony is as old as the laws of Manu. The text of the Mitakshara gives as an instance of impartible acquisition that which has been gained by ‘ science ’ or learning. Difficulties ”—

Mark these words—

“ in applying this simple distinction are supposed to begin when Vijnaneswara makes the comment on this illustration, that ‘ without detriment to the father’s estate ’ must be implied throughout the passage, so that the gains of this kind, which are impartible, are not gains of science as such, but gains of science made without any detriment to the father’s estate and acquired by the coparcener’s exertions independently of patrimonial help. Succeeding commentators developed this point, not always in terms that can be completely reconciled, but the rule itself is simple and logical ; though difficulties arise, as with so many rules, in the application.”

Now, Sir, this is a difficulty which I am pointing out. You have drafted this Bill and, with all respect to the Members of the Select Committee, you have overlooked this most important point which will give rise to conflicting decisions and create further confusion of law which they might have obviated if they had provided against it. This is my second point. The Honourable the Mover of this Bill.....

3 P.M.

**Dr. Nand Lal :** How are these observations applicable to the present measure ?

**Sir Hari Singh Gour :** I am afraid my Honourable friend does not understand me ; but I know that the Honourable the Law Member understands me all right.

**Dr. A. Suhrawardy** (Burdwan and Presidency Divisions : Muhammadan Rural) : You must make it understandable to the House. Do not rely on Government support alone.

**Sir Hari Singh Gour :** Now, I pass on to the other point. The author of this Bill in his Statement of Objects and Reasons has rightly pointed out that the great difficulty in cases of this kind arises when the acquirer of the wealth is dead and his widow or daughter.....

**Sir Cowasji Jehangir** (Bombay City : Non-Muhammadan Urban) : I rise on a point of order, Sir. I understand there is only one amendment before the House moved by Mr. Acharya. My Honourable friend (Sir Hari Singh Gour) is not moving an amendment.

**Mr. President :** He is speaking on the motion before the House.

**Sir Hari Singh Gour :** I think my Honourable friend is new to the House and is not conversant with the procedure of the House. But I hope he will learn it.

The third point is this. The Honourable the Author of this Bill, in his Statement of Objects and Reasons, rightly pointed out that the difficulties in cases of this kind occur when the acquirer is dead and his widow or



daughters have to litigate about their husband's estate, in which case they are confronted with the difficult task of having to prove that the property is exceptional and is not subject to the ordinary presumption of Hindu law that it is a joint family property. That, I submit, is the crux of the whole case. But this Bill does not provide for the onus of proof that in all cases where the acquisition is made as a result of learning and science, or whether it is made with or without detriment to the family estate, the property shall be deemed to be the property of the acquirer and it shall be so presumed. If that had been the simple language of the section, it would have been complete.

**Dr. Nand Lal :** My learned friend is perhaps aware that the question of onus is the question of procedure and not of substantive law. We are now dealing with substantive law or a measure which is going to be enacted as an Act. We are not discussing procedure.

**Sir Cowasji Jehangir :** The Honourable Member must speak on the amendment, which is to the effect that the Bill be circulated.

**Mr. President :** I suppose, Sir Hari Singh Gour is giving reasons why the Bill should be circulated and he is pointing out the defects of the Bill.

**Sir Cowasji Jehangir :** Is he supporting the amendment ?

**Sir Hari Singh Gour :** I think I have made myself perfectly clear in stating, at that very beginning, that this Bill is an improvement and has settled one conflicting point of law, namely, it eliminates the distinction between learning and science. But it falls short of the other two conflicting views of law. The second is as regards the detriment to the patrimony and particularly as regards the burden of proof, and I am appealing to the Honourable the Home Member and to the Honourable the Law Member that, in order to reconcile the judicial conflicts on this point and give effect to what I have pointed out as the considered opinion of Their Lordships of the Privy Council, it is the duty of the Government to bring in another Bill early next year or as soon as possible with a view to complete the reform in the interpretation of this branch of Hindu law. That is my submission.

Now, I wish to point out that, on this particular question of the onus of proof, the High Courts have been for a long series of years giving contradictory judgments. We have, in the first place, an acquirer of property in sole possession of the estate, in which case the question arises whether an acquirer of property who is in sole possession of the estate shall be presumed or shall not be presumed to be the owner of the property. Section 110 of the Evidence Act says that the person who is in possession of the property shall be presumed to be the owner ; but the Hindu Law declares it otherwise. The Hindu Law says that, whatever estate you have in a family, it shall presumably belong to the joint family. So there is a conflict between the Hindu Law and section 110 of the Evidence Act. The Honourable the Mover of this motion points out the difficulties with which widows and daughters are confronted on the death of their bread-winner. As these are the difficulties which still remain, I would ask the Honourable the Law Member, who had nodded his assent to my view, that he will rectify in the interests of the clarification of the law the serious conflict between the Hindu Law and section 110 of the Evidence Act. I submit, in order to make the law perfectly clear, it should be declared that whatever a person is in possession of whether



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he is a member of a joint Hindu family or otherwise, he must be presumed to be the owner because no rule of Indian law can contravene this plain principle of justice and equity.

Now, Sir, having spoken so far, I wish to point out that the Honourable Mr. Acharya stated that you are contravening the *Dharma*, and that you are contravening the Hindu Law. I hope he will now agree that there is no question of contravening the Hindu Law. It is a question of elucidating the Hindu Law, it is a question of nationalising the Hindu Law, it is a question of clarifying the conflict in the judicial cases which exists and to which reference has been made by the highest tribunals in this country.

**Mr. M. K. Acharya :** At whose request you are doing it ?

**Sir Hari Singh Gour :** Then, Sir, it has been said that equity demands that the acquirer should reimburse the expenses of his education. Now, I am surprised to hear why such an amendment has been made or how such an amendment can be passed by this House. No English Law, no Muhammadan Law, no Jewish Law makes any such provision. If the father wishes to educate his children and he does so out of natural love and affection, does he expect any reimbursement ? If he does, it is a moral claim and not a legal claim. And why should it any more be a legal claim under the Hindu Law than under any other law in the land or elsewhere. When this Bill is passed, the father will know that he is not entitled to any reimbursement, and still he will educate his son either in a professional or some other capacity. I object to the introduction of commercialism in a Hindu joint family. I therefore see no reason whatever for reimbursing the father for the outlay he has made on the education of his children.

Then it has been said that this is a case which will completely disintegrate the Hindu society. I have already pointed out that there must be a complete misapprehension of law on the part of those who consider that this is an effort made in the direction of disintegrating the Hindu society. When I have said that it is not a matter of social reform ; when I have said it is not a question of any improvement or advancement of the existing law ; when I have said it merely clears an obscurity, removes a doubt and reconciles a conflict which the judicial authorities have noticed in the texts of the Hindu Law, then I submit I stand on a solid ground in asking the Government to give their combined support to this Bill, because I feel that, though it is not as complete a Bill as I should like to see enacted, still I think it is a Bill that goes in the right direction and, at any rate, elucidates one point upon which the Privy Council have noticed a clear anomaly. Sir, on these grounds I entirely support the motion of my Honourable friend and I appeal to the Government that they should support this measure overruling all the amendments, not on the ground that it is a measure of social reform, because as I have already pointed out it is not a measure of social reform, but one in which Mr. Jayakar is doing a partial duty, which it was incumbent upon the Government to undertake after the judicial decision of Their Lordships of the Privy Council in 1921, and I therefore submit that it is the duty which a Member of the Opposition is doing on behalf of the Government, for which the Government should be thankful. I therefore ask the Government to give their combined and united support to my Honourable friend Mr. Jayakar's motion.

**Rai Bahadur S. C. Dutta** (Surma Valley *cum* Shillong : Non-Muham-madan) : Sir, I wish to submit that the two points urged by the Deputy President do not apply to the merits of this Bill. It is clear from his own statement that, so far as the law of the burden of proof is concerned, if no provision is made in this Bill, the general principles of burden of proof which are enunciated in the Indian Evidence Act, coupled with the presumption of the Hindu law, will govern the case so that, although there might be room for improvement in this respect, it might be made by a separate Bill. Then, as to the apprehension that he entertains that there may be future conflicts in the interpretation of this Bill, if passed into law, as to the law regarding acquisition of learning at the expense of joint funds referring to the doctrine of detriment of the joint family funds or joint family property, I submit that the provisions of this Bill really cover this point and there cannot be any future conflict, because the definition of the Bill is wide enough to cover the cases the Honourable Member pointed out, namely, education acquired at the expense or to the detriment of the family property or by selling some family property, because that is also borne out of joint family funds. So that I submit that in that respect the Bill alters to some extent the law to the detriment of the family property, and this is all that the Bill affects in giving a wider definition of the law of gains of learning.

Passing from these two points, I should only say that I do not look upon this Bill as departing from any principles of morality (Hear, hear.) because, I am not a believer in morality by compulsion.

**An Honourable Member** : Not even a believer in picketing.

**Rai Bahadur S. C. Dutta** : No, not even a believer in picketing when there is compulsion in it. Sir, I did not understand the Leader of the Opposition as saying that he did not consider the morality of the thing. What I understood him to say was this, that so far as this Bill was concerned, the discussion as to the morality of the thing was not very relevant because the Hindu law also which he was proposing to alter in certain small respects did not consider any moral principles, but looked to the expediency of things.

**Mr. M. K. Acharya** : Question.

**Rai Bahadur S. C. Dutta** : The Hindu Law on this point looks mainly to expediency and not to morality, (*An Honourable Member* : "No.") when it allows a selfish member to force partition when he has begun to earn. There are selfish members, as was already pointed out, who force partition after they have acquired learning at the expense of the joint family funds. What would be the position if the Bill is passed ? It would be only this, that the definition of gains of learning would be wider and it would remove conflicts of law, as to the difficulties in applying the law by interpreting the ancient texts. But then I should point out that this law as to gains of learning covers only a very small part of the law of self-acquired property. The other aspects of the law relating to self-acquired property are not affected by this Bill. For instance, even if a man, a member of a joint family, acquired property by his own efforts or by means of learning, gained at the expense of general education, yet he had the option to treat this as joint family property and throw it in the hotch-potch and to mix it up with the other joint family properties so that it might hereafter be treated as joint family property. If he did this by his own act, it would be treated as joint family property.

[Rai Bahadur S. C. Dutta.]

Even if he had the right to claim his self-acquired property, there is nothing in the Hindu law debarring him from devoting the same to the benefit of the same, and that law is not affected by this Bill. So, what I submit is this. I submit, as the Hindu law has no means of preventing the disruptive tendencies breaking the joint family as a result of the action of selfish members in forcing a partition, it is better that the joint family should be maintained by the voluntary action of the members ; that is, if they think it proper and if they are generous minded persons, and if they have received considerable benefit from joint family funds, they will not cheat others. They would give a proper share to the joint family funds. There is nothing to prevent a man from promoting the interests of other members of the family. Those who are not selfish, those who are generous will not fail to help other members of the family, and by helping them out of their goodwill they would be promoting the highest morality.

**Mr. N. Natesa Ayyar** (Madura and Ramnad *cum* Tinnevely : Non-Muhammadan Rural) : Sir, I rise to raise my feeble voice on behalf of the voiceless millions of the orthodox Hindu community. I feel, Sir, and the orthodox Hindu community, whom I have the honour to represent, feels that this Bill is a Bill which is absolutely revolutionary in its character. It is a Bill which strikes at the fundamentals of Hindu law ; whereas the Hindu law in unequivocal terms declares that the property acquired by a member of a joint Hindu family, except in special circumstances to which we need not now refer, must be treated as the property of the joint family, this Bill shakes the Hindu law to its very foundations and it proceeds to say that that property will be his separate property, not partible at the instance of any of the members. The Hindu community, which I have the honour to represent in this House, has always been a very docile community, strong in the security of religious freedom, which has been vouchsafed to them by the successive proclamations of the various Sovereigns of India. They had been remaining impervious to the surroundings and oblivious of what was going on around them. The result was that they did not acquaint themselves with what was going on and they are mainly responsible for the position in which they find themselves now. At no time have they had adequate representation in this Assembly or elsewhere. But a strange event happened last year ; this attitude of theirs received a rude shock, and a very violent shock in the shape of that legislative monstrosity which is now strutting under the name of the Child Marriage Restraint Act. They woke up to the real situation, and they have come before the Assembly to-day to represent their grievances. They feel that this Bill means sounding the death-knell of the joint family ties and affections.

**Dr. Nand Lal** : I may remind my Honourable friend of the conflicts in the various schools of Hindu law.

**Mr. N. Natesa Ayyar** : They feel that the passing of this Bill means the signing of the death warrant of the joint Hindu family system. There is an organised movement, mostly by Arya Samajists, by Theosophists, by the promoters of social reform movements and by the promoters of self-respect movements, and above all, by that amphibious

section of Indian humanity which is neither Eastern nor Western, neither Indian nor European, but a strange combination of all that is bad in both, and which contains nothing that is good in either. The attempt has been made by a number of bodies of this kind to wreck the joint family system and put an end to all the *varna* laws, the *ashrama* laws, and the *varnashrama* system. To some extent I have no quarrel with these bodies. They fight this battle in open daylight ; they give us a fair battle. But what does this Bill propose to do ? In the shape of defining the law relating to the gains of learning, it indirectly strikes at the joint family system and wants to put an end altogether to the joint family system.

**Sir Hari Singh Gour :** How ?

**Mr. N. Natesa Ayyar :** I shall answer presently. My Honourable friend mentioned that, instead of disrupting the joint family, it tends to the preservation of the family. One reason further mentioned by him was that it is equitable and fair that the acquirer ought to have the benefit of the thing acquired by him. The fundamental fallacy that lies underneath this proposition is this ; it takes no note of the fact that the Bill prevents an individual from making any acquisition whatsoever. Whereas the Bill is anxious to preserve to the acquirer the golden eggs which he hopes to acquire, the effect is to prevent the individual from acquiring those golden eggs at all. I shall explain the position in this way. A father, an elder brother, or the manager of a joint Hindu family has now a very good incentive to send the sons or wards to England or to equip them in every department of knowledge. The incentive is that, as a result of the education imparted at the family expense, the boy returns fully equipped. He is a source of profit to the family. It is this selfish interest—and human actions cannot be free from this kind of vanity and selfishness—which gives an incentive to the manager of the family to equip the junior members of the family with higher education. This incentive will, if the Bill becomes law, be irretrievably gone and gone for ever ; and the result will be that, within two decades of the working of this Act, you will not be able to find one Hindu in a position to go to schools or colleges for higher education. I respectfully place before you for the consideration of this House this salient feature which has been completely lost sight of. I will ask Mr. Jayakar, if this law had been passed 35 years ago, would he have been able to appear in this Assembly in the capacity in which he now appears here ? I doubt very much whether 50 per cent. of the Members who are now figuring as Members of the Assembly would have been able to appear here and to place before this House matters which they are now representing. It is because this law did not exist, it is because the fathers and managers of families were fully cognisant of the benefits of the joint Hindu family law by which they were themselves governed that they were sending their boys for higher education, and we are now what we are. I therefore put this matter forward preeminently for the consideration of the Assembly as an element which it has to take into consideration before giving its verdict upon this Bill.

There is one other aspect of the case. It was represented by the Honourable the Mover that there would be hardship in shutting out the

[Mr. N. Natesa Ayyar.]

benefits of the acquisition from the acquirer's widow, in case he happened to die without making any arrangements for the benefit of the widow. My answer to that is this. I shall assume that it is a hardship. But suppose there is an unchaste wife, suppose there are daughters by a pre-deceased wife, who will get this property in the absence of the son? Why should the daughters be disregarded?

**Sir Hari Singh Gour** : Who should get it according to you?

**Mr. N. Natesa Ayyar** : I will answer it. The spirit of the Hindu law is that the joint family should get it. Why should you break away from that law? What is the extraordinary circumstance which compels us to say that the stranger who has come into the family—the widow—should get it rather than the devoted father, brother and the other members of the family who would otherwise get it? What is the special reason which moves the mind of the Honourable the Mover of the Bill?

**Dr. Nand Lal** : It is regrettable that the widow, who is the queen of the house, should be considered as a stranger.

**Mr. N. Natesa Ayyar** : Certainly she is a stranger. The moment she comes into the family she may become a member of the family, but as between the coparceners and the issueless widow, certainly the widow is a stranger, and the remedy regarding this matter lies in the hands of the acquirer himself. At any moment he can separate himself from the joint family—a piece of paper will do for the purpose and no registration is necessary—and he may declare that he is a separated member and from that moment all the property that he acquires will become his self-acquired property, and the widow will get it. From that moment all his acquisitions become his separate property. One reason which was painted in lurid colours by the Honourable the Mover of the Bill was that there are many difficulties confronting judicial tribunals in determining the question whether a particular acquisition is self-acquisition, the gains of learning, or the result of ordinary education. What is the remedy for this state of things? Is it not flying directly against the principles of Hindu law? The Hindu law says that the gains of learning are not partible if they are not acquired to the detriment of the family estate. The judicial tribunals feel extreme difficulty in determining the question, what are the gains of learning and what are not the gains of learning. Well, the simple solution for this is to define what is meant by gains of learning.....

**Sir Hari Singh Gour** : That is just what he has done.

**Mr. N. Natesa Ayyar** : Not by saying that, whatever is acquired as the result of education is his self-acquisition and must go to the individual acquiring it.

**Sir Hari Singh Gour** : That follows from it.

**Mr. N. Natesa Ayyar** : That will not follow. If you define the term and say what "gains of learning" means, then the judicial tribunals will experience no difficulty whatsoever in giving their verdict as to whether a particular acquisition is or is not the result of learning; but instead of so doing that, what this Bill attempts to do is, whether

the acquisition is the result of learning or the result of ordinary industry, to provide that in all cases alike it ought to go to the hand of the acquirer. This is what the Hindu law directly says ought not to be done. The Hindu law says that it is only the gains of learning not acquired to the detriment of the family that alone should be partible ; but the proposed Bill will say that all acquisitions, however made will be the property of the acquirer. This is flying directly in the face of Hindu law ; it is abrogating the Hindu law ; it is shaking the foundations of Hindu law, for which there is absolutely no justification. I therefore say that this Bill ought not to be rushed through ; I do not want that this matter ought not to be considered in all its aspects. It is said that this Bill has been before the public for nearly one year. I must confess that though I am in the profession, I have not had knowledge of the Bill until three or four months back. Do you expect the many millions inhabiting the Southern Presidency to have knowledge of this Bill ? I know for certain that the vast majority of people there do not know of the Bill. Why then should you rush it through at this last stage of the House ? Why should not the ordinary practice of circulating the Bill for public opinion be had recourse to in this case as in other cases ? We have had the benefit of a Committee of five ; they say simply that they approve of the principle of the Bill ; they do not enter into any elaborate discussion of the scope or principles of the Bill ; and it has been reserved to one member, a dissenting member, Mr. Kelkar, to say that the Bill is defective at least in one respect. Should not that matter be considered ? Why should a family be deprived of the money which it has spent upon a particular individual ?.....

**Sir Hari Singh Gour :** Did he earn that money as gains of learning ?

**Mr. N. Natesa Ayyar :** There is a fallacy here again on the part of the Mover of the Bill. He put forward a statement before this Assembly that the ordinary Hindu law is that, when a partition is made, the person who has had the benefit of the education cannot be called upon to reimburse the family to the extent of the expenses which had been incurred on his behalf. I think that is only partially correct. When the partition takes place, the property he has already acquired must be brought into the family chest. I believe that the House will be able to see the fallacy. It is true that when an account is taken, the member on whose behalf expense has been incurred will not be called upon to reimburse the sum that has been expended on his behalf, but what is the reason ? The reason is that the property he has acquired as a result of that expenditure will also be brought into the common chest and will be divided ; but when you deny one thing, you ought not to deny the other. If you deny the right of the family to participate in the benefit of the acquisitions that have been made, you ought not to deny the right of the family to have the expenses reimbursed. That aspect of the case has also to be considered by the Assembly.

On the whole, it is my respectful submission that this Bill has not reached a stage at which it can be rushed through in the Assembly without further consideration. There are very many persons who are entitled to speak authoritatively on this point, and it is absolutely necessary that the Bill should be circulated for obtaining the opinions of those who are entitled to give their opinion.

**Mr. T. N. Ramakrishna Reddi** (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Mr. President, at this stage of the discussion, it is not my purpose to enter into the labyrinth of learned and at the same time very interesting disquisitions on Hindu law as was done by the previous two Honourable Members, nor to attempt at reconciliation of the conflict of some sections in the Evidence Act with some provisions of this Bill, which my Honourable friend Dr. Gour thought might come about if this Bill was passed into Law. If there are any such conflicts, it is for those Honourable Members to bring in amending Bills to remove such defects. But, Sir, I am glad to find unanimity of opinion among Members in this House, including the Honourable and learned Member, Dr. Gour, in favour of this Bill. As far as I can see there are only two discordant notes sounded against this Bill.....

**Mr. M. K. Acharya** : Many more in the country.

**Mr. T. N. Ramakrishna Reddi** : As far as I can see, there are only two discordant notes ; one of the Honourable Members who opposed this Bill did so on grounds of orthodoxy ; another Honourable Member opposed the Bill on the grounds of legality as well as orthodoxy. I do not see there are any valid grounds for opposing this Bill on the ground of orthodoxy. The Honourable Member, who is a Sanatana Dharmist, might remember that there were two Sanatana Dharma conferences held after the Bill was introduced in this Assembly. One was at Madras and it was presided over by no less a person than Mr. V. V. Srinivasa Ayyangar, who had adorned the High Court Bench of Madras for two years, and who is still considered as an eminent Hindu lawyer. He was a Sanatanist and President of the Sanatana Dharma Sabha, but he never raised any objection with regard to this Bill though it was before the country at that time.....

**An Honourable Member** : No, it was not.

**Mr. T. N. Ramakrishna Reddi** : The Honourable Member, who now wants to interrupt me, did not raise his little finger in the Sabha against the Bill.

**Mr. N. Natesa Ayyar** : It was not one of the subjects brought forward before the Conference.

**Mr. T. N. Ramakrishna Reddi** : That was the proper place for the Sanatana Dharmists to ventilate their grievances, if any, against this Bill. The Conference was a representative conference and that was the proper place.

Then the Honourable Member said that orthodox Hindus are always opposed to any deviation from the Hindu law. Well, Sir, any lawyer, and much more so the eminent lawyer who preceded me, well knows how the High Courts have been interpreting Hindu law very liberally from time to time, and especially during the time of the late Justice Seshagiri Ayyar and that great social reformer the late Justice Sadasiva Iyer. The veriest tyro in the field of law will find that women have gained a lot of privileges under the decisions of the High Courts—for instance, according to the Hindu law texts to which my Honourable friend who preceded me wants to cling, a woman cannot hold any property at all absolutely. But that has been toned down by subsequent judgments of

the High Courts, so much so that at present a woman can hold property as her own, just as much as any male member of the family ; and with regard to many other points of Hindu law the High Courts have given very liberal interpretations and there were absolutely no objections raised against those decisions. I support the Bill on various grounds, one of them being that it has been fully considered by the Select Committee composed of eminent lawyers and business men, and this has come out of the Select Committee unscathed. Even Mr. Kelkar did not oppose the Bill ; he simply said that on equitable grounds another clause must be added, that the acquirer should reimburse the money which had been spent on his education. That does not mean that he is opposed to the principle of the Bill. It is the business of the father, it is his duty, to spend money on the education of his children. In the eyes of the father there is no distinction between one child and another. And nobody will expect, much less the father, that his son should pay back the money to the family. Then, Sir, I support this Bill on other grounds also. For instance, take the illustration pointed out by the Honourable the Mover. A man happens to earn a lot of money as a lawyer or as a doctor in a city and lives a very decent life. More often his parents and other relations might be living in a village leading a villager's life. Suppose the man, who lives in the city all his life and earns money, happens to die. On his death his wife has to go to the village, though she has all along been living a decent life in the town, and obey the dictates and commands of the women of the house in the village ; otherwise she will be sent out. And is the fate of this poor widow and her female children to depend upon the whims and caprices of the women at home in the village ? Then again, Sir, even the High Courts have in recent cases decided that the gains of learning should belong to the acquirer even if he received a general education—it may be B.A. or M.A.—unless it is a special education. The distinction is made only with regard to special education. Sir, it is very difficult to make a distinction between general education and technical or special education in all cases and so, in order to remove all these defects, this Bill has been introduced, and I have no doubt that every progressive Member of this House and every lover of this country will support this measure.

**The Honourable Sir Brojendra Mitter** (Law Member) : Sir, the question before the House at the present moment is the amendment for circulation, and I shall briefly state the Government attitude in this matter. Sir, in February last when the motion of my Honourable and learned friend, Mr. Jayakar, for a reference to Select Committee was before the House, I said this :

“ The Bill deals with secular rights and no religious principle is involved in it. As the general sense of the Hindu Members of the House is in favour of the principle of the Bill, Government will not stand in the way. The attitude which Government take up in the matter is one of neutrality and they leave it to the Hindu Members to shape the Bill in manner best suited to the conditions.”

That was our attitude when the Bill was sent to the Select Committee, and the House approved the principle of the Bill. Now, the Bill has been considered in the Select Committee and a Report has been made. Our position with regard to circulation is this. If we



[Sir Brojendra Mitter.]

were convinced that there was a general feeling against this Bill, or if we were convinced that the Bill had got any of the mischievous tendencies which my friend Mr. Acharya mentioned, then, Government would certainly have supported the motion for circulation....

**Mr. M. K. Acharya :** How do you know it except by circulation ?

**The Honourable Sir Brojendra Mitter :** If we were convinced of it, we would certainly have supported the motion for circulation. Sir, the Bill has been before the country for several months. It has been said that the vast millions do not know anything of the Bill. Even if the Bill were before the country for ten years, those vast millions would never have known of it, and even if they had known of it, not even a microscopic minority of those vast millions would have understood the implications of the Bill. This is not a layman's Bill. A layman would not understand what the law is, how the law has been from time to time interpreted by the courts, and what changes are necessary. That is not a matter for the masses. This is a matter entirely for lawyers. This is a lawyer's Bill. Therefore, the plea that the general public have not had an opportunity of expressing their views on the Bill, I submit, is not valid.....

**Mr. M. K. Acharya :** Have the electors, who have sent us here, no right to say what they think of the Bill ?

**The Honourable Sir Brojendra Mitter :** The electors have got every right to say whatever they choose on any measure before the Legislature, but the question is the competence of the people to talk on a measure like this. Are the general masses competent to talk on a measure like this, or are they competent to form any judgment on a measure like this ? It is only lawyers who can form a judgment.....

**Mr. Gaya Prasad Singh** (Muzaffarpur cum Champaran : Non-Muhammadan) : Sir, does not this Bill seek to change the course of succession of property ?

**Sir Hari Singh Gour :** No, it does not.

**The Honourable Sir Brojendra Mitter :** I am coming to it presently. What I say is this, that if Government were convinced that this Bill had any of the mischievous tendencies which have been referred to in the course of the debate, certainly Government would have supported the motion for circulation. Now, what are the mischievous tendencies which have been mentioned ? The first is, that it tends to disrupt the joint family. Sir, we are not convinced that the Bill has got that tendency.....

**Rao Bahadur D. R. Patil** (Bombay Central Division : Non-Muhammadan Rural) : You have not heard all the Members ; how are you convinced then ?

**The Honourable Sir Brojendra Mitter :** The first alleged mischievous tendency is the disruption of the joint family. Sir, we are not convinced that the Bill has that tendency. It has been pointed out by a number of Members that it has just the opposite tendency. Not only does it not mean disintegration of the joint family, but it means, if it

means anything at all, consolidation of the joint family. That is the view which Government take.

The second mischievous tendency which has been mentioned is that it offends in some way Hindu Dharma. Sir, Government take the view that no principle of Dharma is involved in this Bill. It is a purely secular measure, and therefore Hindu Dharma does not come in at all.

The third mischievous tendency which has been referred to by the last speaker is that, if this Bill be passed, then Hindu parents would be disinclined to spend money for the education of their children. Sir, speaking as a Hindu, I say this, that it is a gross libel on Hindu parents. Hindu parents will continue to educate their children even though such a step involves the greatest sacrifice. Hindu parents do not educate their children in the expectation of a monetary return out of the acquisition of those children. They educate their children in discharge of their parental duty, out of love and affection. These are the three mischievous tendencies referred to. On none of them are the Government convinced. That being so, Sir, Government cannot support the motion for circulation. The Bill has been before the country for several months and Government have not received any protest either from any Hindu Association or from any person competent to express an opinion on the measure.

**Mr. M. K. Acharya :** Because Government have not asked them.

**Mr. N. G. Ranga** (East Godavari and West Godavari *cum* Kistna : Non-Muhammadan Rural) : It is the business of the public to express their view.

**The Honourable Sir Brojendra Mitter :** In view of the opinion expressed in this House in February, and in view of the general sense among the Hindu Members in support of the Bill, Government feel that no useful purpose will be served by circulating the Bill for further opinions. Sir, Government are not in a position to support the motion for circulation.

**Several Honourable Members :** Let the question be now put.

**Mr. President :** The question is that the question be now put.  
The motion was adopted.

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

"That the Bill to declare gains of learning by a Hindu to be his separate property, as reported by the Select Committee, be taken into consideration."

Since which the following amendment has been moved :

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

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

The motion was negatived.

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

"That the Bill, to declare gains of learning by a Hindu to be his separate property, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

**Mr. President :** Clause 3.

**Mr. M. K. Acharya :** (*Cries of "Withdraw."*) I beg to move that at the end of clause 3 the following be added :

" Provided however that where a person's learning has been imparted to him out of the joint funds of his family, he shall be liable to repay to those joint funds the full amount spent upon his learning."

Sir, I am one of those who always feel.....

**Sir Hari Singh Gour :** I rise to a point of order. Under Standing Order 46, printed at page 113 of the Assembly Manual, notice of an amendment should have been given not less than two clear days before the date on which the Bill is to be considered, and if it is not so given, any Member may object to the moving of the amendment and such objection shall prevail, unless the President, in the exercise of his power to suspend this Standing Order, allows the amendment to be moved. I never got notice of this amendment and I do not think that any other Honourable Member got two clear days' notice of this amendment. Sir, I object to the moving of this amendment.

**Mr. President :** I understand that notice of the amendment was received on the 12th and it was printed and circulated before two clear days from to-day. Therefore, the amendment is in order.

**Mr. M. K. Acharya :** Thank you, Sir. I am sorry that, even when Members are sure of their votes, they must try to get advantage by subterfuges, by having resort to rules and Standing Orders. I am very glad that you are here to vindicate the rights of humble Members like me. Now, Sir, I will just say this. As the House wants to show to me what their general feeling is towards this amendment, I would submit most respectfully to you and to others that I am here to do my very humble duty, and I will beg of you and others to allow me to do it whatever may be the consequences. I am one of those who believe :

" They are slaves who dare not be in the right with two or three."

What does it matter ? The great majority here are against me in this amendment, but I am here to do my humble duty, and my humble duty I will do. (*An Honourable Member :* " This is not the first occasion.") No, this is not the first occasion certainly when I do my duty. The amend-

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ment that I want to move is that at the end of clause 3 the following be added :

" Provided however that where a person's learning has been imparted to him out of the joint funds of his family, he shall be liable to repay to those joint funds the full amount spent upon his learning."

I am ready to admit that, if I had more time at my disposal to consult my lawyer friends, I might have been able to draft this much better. Our minds were engrossed with other things and that was in fact my argument this morning. I was greatly impressed by the argument of Mr. Kelkar contained in his minute of dissent.

**Mr. President :** Why did you put in your amendment without consulting your lawyer friends ?

**Mr. M. K. Acharya :** Because I had no time and I was afraid that they would ask me for their fees. I saw this note of Mr. Kelkar which was put into my hands only last week. After studying it—I thought my intelligent friends would easily follow me—I sent in notice of this amendment, and however, imperfect it may be, I want to have it recorded, because hereafter when the provisions of this Bill come up again, somebody may bring in a better Bill. Now, two or three objections have been taken, some of which appear to me to be frivolous. One of them was that, even under the present law, there is no obligation to pay back to the family what is spent upon general education, and therefore why should we create an obligation in the new Bill, which is not already in the existing law ? I thought the new Bill was meant to improve the existing law in certain respects. I thought that the Honourable Mr. Jayakar wanted to improve the present law with regard to gains of learning, and it should be open to him to allow others also to improve the existing law. However, it is doubtful, as my friend Mr. Natesa Ayyar has just said, whether in the existing law there is any provision at all of some kind or other with regard to the family claim on the gains of learning. Another reason was put forward by the learned Knight from Nagpur that there is nothing in Christian or Muhammadan law to the effect that the father must be paid back the cost of the education of his son, and that therefore there should be nothing in the Hindu law. Even supposing, for the sake of argument, that there is nothing in Christian or Muhammadan or Jewish or Parsi law, I cannot see the force of the argument that there should be nothing provided in the Hindu law. I do not exactly understand the logic of this at all. You can as well say that, if men of other creeds do not put any mark on their forehead in memory of God's name, therefore I should not put any on my forehead. I do not understand that analogy. If such a provision does not exist in other systems of law, probably they do not require it. I cannot understand the force of the logic that merely because such a provision does not exist in other systems of law, therefore there should be no provision in the Hindu law. The Hindu law is wholly different from other systems. The argument of the Honourable the Law Member was a little more satisfactory—that the father does his duty to his son because he wants his son to be great and happy in future, irrespective of any return. Certainly the Hindu *dharma* is very much more comprehensive, and let me here respectfully submit to the Honourable the Law Member that that term "*dharma*" does not mean the English word "religion".

**The Honourable Sir Brojendra Mitter :** The meaning of the word "*dharma*" is duty and when I spoke of "*dharma*" I used the word in that sense.

**Mr. M. K. Acharya :** That is a side question into which we need not enter now. "*Dharma*" means a lot of things—the whole cyclopedia of right life. It cannot be expressed by the word "duty" or any other word. That is by the way. After all, a father does his best towards his son, irrespective of any return. Similarly a son is expected to do his best towards his father. There may be an ungrateful son who does not do his duty by those who spent money on his education. There may be a wicked husband, who is encouraged by the law to transfer all his gains of learning to his wife. These are various aspects of this question, but they do not represent the legal aspect.....

**Mr. President :** Order, order. I hope the Honourable Member will kindly realise that this is the last day when non-official Bills will be discussed in this House. This is the last day allotted during this Session when non-official Members will do the work of legislation. Therefore I trust the Honourable Member will be good enough to restrict his speech only to the point at issue. His speech ought to be relevant and he should restrict himself to the point at issue.

**Mr. M. K. Acharya :** I bow to your wishes ; but I am not responsible for this debate at all ; it has been thrust upon me. Now, Sir, my argument is simply this. There may not be an obligation on the part of the son to repay the amount to the family in the legal sense ; but I think it is the moral duty of every son to pay back to his father or other members of the joint family the sum which has been spent upon his education from the funds of the joint family.

Lastly, I believe Mr. Jayakar asked, who is to find out how much was spent upon the education and how much should be paid back ? And he said that the widow, long afterwards, would be put to the trouble of proving whether the education was received out of family funds or was not received out of family funds. Sir, I am not a lawyer, but I should have thought that the burden of the proof would be upon those who claim. If a member of the family claims that some of the money in question should go back to the family, I think the burden of proof would not be upon the widow but upon those who put forward this claim, and I should have thought the onus would not lie on her to show that the gains of learning in question were acquired in this way or that way. However, that is for the lawyers to say. I personally do not think this a sound argument, as I should have thought that the proof would have to come from those who claim. In any case, I submit the least that we can do is, while agreeing to this Bill to insert a provision however imperfect—and Sir Hari Singh Gour has shown that the Bill would have been better if further amended in some ways—that “where a person's learning has been imparted to him out of the joint funds of his family, he shall be liable to repay to those joint funds the full amount spent upon his learning”. Sir, a man whose parents or guardians spent all the family property on educating him is under some obligation and may even be called upon in a court of law to pay some of the expenditure back. That is all I want to say, and therefore I move my amendment. It does not matter to me whether it is going to be accepted or not, but I must do my duty and move amendment.

**Mr. President :** Mr. Jayakar.

**Mr. N. Natesa Ayyar :** Sir, I crave only a few minutes in order to support the amendment. The only aspect which I wish to place before this Assembly is the legal aspect. My Honourable friend, Mr. Acharya, said that it is a moral obligation. I say it is not only a moral obligation but it is a legal obligation as well. The legal aspect of the case is the common sense aspect. Law is but the quintessence of common sense, and common sense requires that any expense incurred under this head ought to be reimbursed to the family. The father or the manager of a property, whoever he may be, when he spends money on a particular member of the family, does so as a trustee for the family. He cannot embark upon an enterprise which will not be for the benefit of the family. If therefore a particular sum is to be spent on a particular member of a family,

the manager of the family or the father will be guilty of a gross dereliction of duty and of a gross breach of trust if he does not limit the expenditure within the safeguards which have been provided by law. Therefore, when a particular member of a family acquires higher education and is sent to England or any other place for the purpose of special study, the father or the manager of the family hopes, not for his own personal interest, but in the interests of the family, that a corresponding return to the family for the monies spent out of the family fund will be made. Therefore it is not only a moral obligation, but it is a legal obligation which he owes to the family which has incurred the expense. A member of a joint family, who has been educated at the joint family expense, should be under an obligation to repay it, and inasmuch as this is a matter relating to a trust which has been imposed on the father, there is absolutely no period of limitation for his claim. When the time of accounting comes, when the members of the family are to give an account of the various monies received, then comes the time for taking the accounts, and then you will have a proper account of the proper amount which is to be payable by one member or other of a joint family. Therefore I heartily support the amendment of my Honourable friend, Mr. Acharya.

**Mr. M. B. Jayakar :** Sir, I oppose this amendment (Hear, hear,) and I shall deal with it in just a few words because there are a number of other Bills, and as the Honourable the President has remarked, this is our last day for going through non-official Bills. Sir, this amendment is absolutely ill-considered, as Mr. Acharya himself admitted. (*Mr. M. K. Acharya :* "No, no.") If, Sir, the Honourable Members will turn to this amendment, which reads :

"Provided however that where a person's learning has been imparted to him out of the joint funds of his family, he shall be liable to repay the full amount spent upon his learning."

and if they will then turn to the definition of the word "learning", that is :

"education, whether elementary, technical, scientific, special or general, and training of every kind which is usually intended to enable a person to pursue any trade, industry, profession or avocation in life"

they will see the absurdity of this amendment. Of course one can forgive Mr. Acharya because he is not a lawyer, but I am surprised that my lawyer friend Mr. Natesa Ayyar should not have seen the absurdity of Mr. Acharya's amendment. If we accept this amendment, Sir, the result of that will be that the present law will be made even stricter, and the acquisitions of any learning, however, elementary and general it may be, will be regarded as joint family property and will have to be repaid back. That means that the present law will be made narrower than it is at present. As Mr. Acharya himself has admitted, this amendment is most ill-considered and I oppose it.

**Mr. Gaya Prasad Singh :** It is mischievous.

**Mr. President :** The question is that at the end of clause 3 the following be added :

"Provided however that where a person's learning has been imparted to him out of the joint funds of his family, he shall be liable to repay to those joint funds the full amount spent upon his learning."

The motion was negatived.

Clauses 3 and 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**Mr. M. E. Jayakar** : Sir, I move that the Bill be passed.

**Mr. M. K. Acharya** : Sir, I object to the passing of the Bill.

**Mr. President** : The question is that the Bill be passed.

The motion was adopted.

### THE AJMER-MERWARA COURT-FEES (AMENDMENT) BILL.

**Rai Sahib Harbilas Sarda** (Ajmer-Merwara : General) : Sir, I rise to move that the Bill further to amend the Court-fees Act, 1870, for a certain purpose, as reported by the Select Committee, be taken into consideration. This Bill is a simple measure and its applicability is confined to Ajmer-Merwara. The Bill aims at reducing the burden of court-fees on widows. If this Bill is passed into law, widows suing for maintenance will have to pay a lesser amount of court-fees on their plaints than under the present Court-fees Act. It is entirely a question of revenue, and the Bill is non-contentious. The Local Government have accepted the Bill, and the Government of India are in complete agreement with the terms of the amending Bill. I therefore move that the Bill be taken into consideration.

**Mr. C. W. Gwynne** (Home Department : Nominated Official) : Sir, I only wish to say that, as was explained at Delhi when the motion for reference to Select Committee was passed, Government have no objection to this Bill. They are very friendly to it, and support it, now that the necessary drafting amendments have been made.

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

“That the Bill further to amend the Court-fees Act, 1870, for a certain purpose, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**Rai Sahib Harbilas Sarda** : Sir, I move that the Bill be passed.

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

“That the Bill further to amend the Court-fees Act, 1870, for a certain purpose, as reported by the Select Committee, be passed.”

The motion was adopted.

### THE MUSSALMAN WAKF VALIDATING (AMENDMENT) BILL.

**Mr. A. H. Ghuznavi** (Dacca Division : Muhammadan Rural) : Sir, I beg to move that the Bill to amend the Mussalman Wakf Validating Act, 1913, as reported by the Select Committee, be taken into consideration. Sir, this short Bill was introduced to give retrospective effect to the Mussalman Wakf Validating Act, 1913, which my Honourable friend

Mr. Jinnah introduced in the old Imperial Council, and that Act has been in operation already for the last 17 years. In my Statement of Objects and Reasons I have fully explained why this Bill is required. The Mussalman Wakf Validating Act aimed at restoring the Mussalman Wakf law as it was understood and applied by the courts before Their Lordships in the Privy Council overruled their decisions and declared Wakfs in favour of one's family (Wakf ala'l-Aulad) as illusory and obnoxious to the rule against perpetuity. There is no room for doubt that this Validating Act of 1913 was never intended to be prospective, but being declaratory Act—an Act declaratory to the existing personal law of the Mussalmans—it was evidently retrospective. But in a number of cases—and I have cited only a few in my statement of Objects and Reasons—the High Courts of India have held that this Act is prospective and not retrospective, and the wakfs and endowments in favour of one's family or descendants (Aulad) executed prior to the enactment of this law thus stand excluded from the purview of the Wakf Validating Act of 1913. It is to include these wakfs and endowments within the purview of this Act and save many a respectable family from utter ruin that this Bill has been brought in. Sir, if this Act validates wakfs in favour of one's family, children and descendants (Aulad) created after its enactment, why similar wakfs and endowments created before this Act was passed should be deprived of its protection passes one's comprehension. They certainly do not merit this penalty, and it is only just and fair that retrospective effect should be given to the Wakf Validating Act of 1913. The Select Committee, after giving it its careful consideration, has amended the Bill. Honourable Members will observe that the sole object of the Bill is to give retrospective effect to the Act of 1913. Although the Bill has emerged from the Select Committee in the form of a distinct, independent Bill and not as an amending Bill, that object has not been lost sight of. Only the scope of the Bill has been narrowed by the introduction of a proviso to save vested rights as far as possible.

Sir, I move that the Bill, as amended, be taken into consideration.  
The motion was adopted.

Clause 2 was added to the Bill.

**Mr. President :** The question is that clause 1 stand part of the Bill.

**Rai Bahadur S. C. Dutta :** (Surma Valley *cum* Shillong : Non-Muhammadian) : Sir, I move :

“ That clause 1 be re-numbered as clause 1 (1) and the following new sub-clause be inserted :

‘ (2) It shall come into operation on the 1st August 1931 ’.”

Sir, I wish to begin by explaining how it is that I, a non-Muhammadian, should take an interest in this matter which may be considered forbidden ground for me. I should explain at once that, when I was elected a Member of this Assembly in January last, some Mussalman gentlemen of my district approached me and said that they were opposed to the principles of a retrospective Bill of this kind and that their vested interests would suffer by its passage. They also said that there were several wakfs that sought to alter the law of succession according to the Muhammadan law. In fact, I was myself from the very beginning opposed to the principle of retrospective law, but at that time I gave



[Rai Bahadur S. C. Dutta.]

them only this promise that I would look into this matter when it came up before the Assembly. When I got the text of the Bill, as amended by the Select Committee, I found that the scope of the Bill was much restricted by the proviso which was added to this Bill. I found that the proviso really limited the scope of the Bill to a single class and I wondered why a law of this kind, restricting the operation of the Bill to only wakfs in respect of a very limited class of people should be passed at all. But then I considered that at least if the law was to be passed, those persons whose vested interests were affected by the Bill should be given some further measure of protection. I thought that some further time should be given to those who might protect their vested interests within the year. The Bill does not protect all vested interests.

**Mr. A. H. Ghuznavi :** It does.

**Rai Bahadur S. C. Dutta :** I shall presently show that it does not. It protects all vested interests that were acquired after the creation of the wakf.

**Dr. Nand Lal :** (West Punjab : Non-Muhammadan) : Kindly see that it says "already acquired". That demolishes your argument.

**Rai Bahadur S. C. Dutta :** No, it does not. The proviso will show this. The proviso runs thus :

"Provided that nothing herein contained shall be deemed in any way to affect any right, title, obligation or liability already acquired, accrued or incurred before the commencement of this Act."

Now, what is the meaning of acquisition ? Acquisition means that the right that was not existing before was acquired subsequently, that is, acquired subsequent to the creation of the wakf. Well then what is acquired ? This proviso does not save the original owner who created the wakf, if he be living now. It protects all acquisitions, it protects acquisition by purchase, by grant, by gift and also by will or by right of inheritance. Inheritance is also acquisition. Right accrues or is acquired thereby. Supposing a person creates an invalid wakf and then he dies. His heirs get the property. That is also a kind of acquisition, if, when the wakf is created, it is invalid. We are under this Bill validating wakfs that are invalid. If they are invalid, the property remains in the hands of the person who created the wakf as his own property. As soon he dies, the property passes into the hands of his heirs. They acquire it and that right is protected by this proviso. The rights of heirs who get this property by right of inheritance are protected by this proviso. Then where does the operation of the Act end ? Only in the case of those wakfs whose owners have not yet died. It is limited to this particular class of persons. That is, this validating Act would confine its operation to those wakfs, the creators of which are still alive and whose rights have not been protected by the proviso, as they cannot be said to have acquired any right. That is the sense of the proviso. I also gather from this proviso that it protects the rights of heirs. This is also clear from this that in this Bill, as it has emerged from the Select Committee, there is no proviso to protect pending litigation. If it was intended to affect the rights of heirs, there should have been such a provision.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions : Non-Muhammadian) : Pending litigation is protected by the General Clauses Act.

**Dr. Nand Lal** : There is a special Act for that.

**Rai Bahadur S. C. Dutta** : But it is clear from my point of view, that it protects all rights, except rights that are in the hands of the original owner who created the wakf and who is alive. That being so, I should remind the House that he has also a vested right.

**Dr. A. Suhrawardy** (Burdwan and Presidency Divisions : Muhammadan Rural) : What is vested right ?

**Rai Bahadur S. C. Dutta** : Vested right is not future right, nor contingent right, but it is existing right. I would like to remind the House that we are contemplating to validate wakfs which are in their inception, according to Muhammadan law, invalid. That being so, there has been no valid wakf. There has been no dedication to God ; so that the right remains in the hands of the person who created the wakf, so that that will be his vested right, and that is the only vested right that is affected by this Bill, as he has not acquired any right afresh and is outside the scope of the protection of the proviso. Considering the limited scope of this Bill, I should say, that while a man may have created a wakf which is invalid according to the Muhammadan law.....

**Dr. A. Suhrawardy** : Not according to the Muhammadan law.

**Rai Bahadur S. C. Dutta** : According to the Muhammadan law as interpreted by the highest tribunal. Otherwise there is no necessity for this Bill.

**Sir Hari Singh Gour** : This Bill is intended to make the Validating Act of 1913 retrospective, and it safeguards every right.

**Rai Bahadur S. C. Dutta** : It does not safeguard all rights ; I want additional safeguards. I say these are the persons who created certain wakfs, which are to be deemed invalid according to Muhammadan law, as interpreted by the Privy Council. Well then, suppose they were advised that the wakf was invalid, and subsequently, though they created it, they were treating the property as their own.

**Sir Hari Singh Gour** : There is the proviso.

**Rai Bahadur S. C. Dutta** : That proviso does not cover this case. It does not cover the case as the original owner does not acquire it. His right remains as it was before.

**Maulvi Abdul Matin Chowdhury** (Assam : Muhammadan) : Is the Honourable Member in order in discussing this question of vested right on the amendment before this House ?

**Rai Bahadur S. C. Dutta** : I am in order as my amendment aims to give protection to those whose vested rights are going to be affected.

**An Honourable Member** : This is a matter which concerns Mussalmans, why should Honourable Member waste time over it ?

**Rai Bahadur S. C. Dutta** : It does affect the district from which I come, in which the majority of the people are Muhammadans. It therefore concerns me as well. It is within the scope of my duty. If I have a right, I ought to discharge my duty according to my conscience. I

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say, Sir, take the case of a man who created a wakf. He was subsequently advised that it was invalid. Well then, he says, "I should hereafter treat it as my own property and no further deed is necessary". I say that you should give that man another opportunity so that he might create a deed and settle all disputes with a view to avoid all future litigation about the property.

**Mr. President :** How does your amendment help him ?

**Rai Bahadur S. C. Dutta :** By giving him more time.

**Sir Hari Singh Gour :** How ?

**Rai Bahadur S. C. Dutta :** The former deed by which he created the wakf was invalid and this amendment will give him one year's time so that he may create another wakf deed of a different import. If he wanted to maintain the same wakf, there would be no difficulty, but he may have changed his mind and may want the property to go to his heirs. In that case, as this is going to be interfered with, he should get time to execute a deed setting aside the previous wakf. This would be effective and the Muhammadan law allows it.

**Sir Hari Singh Gour :** I just want to explain that this amendment is futile.

**Rai Bahadur S. C. Dutta :** I have not yet finished. So, Sir, I think the House will consider this point, that it affects a class of persons who have certain rights and you are going to deprive them of their rights. However limited this class of persons may be—they may be very few—you are going to affect their rights because according to the proviso, their rights are not protected, for they have not acquired their rights after the creation of the wakf. This Bill does not protect their rights, so that an opportunity should be given to them to protect their rights in the way they are legally advised. They may create another wakf. Or, because they were treating the property as their own, as they were advised that the wakf already created was not valid, they must be given another opportunity to create a deed setting aside the wakf and showing their intention that it is to go to the heirs. So long as the Bill was not passed, such a deed was not necessary.

**Mr. President :** Please do not repeat your arguments.

**Rai Bahadur S. C. Dutta :** With these words, I move my amendment.

**Dr. A. Suhrawardy :** Sir, I rise to oppose the amendment moved by my Honourable friend Mr. Dutta. I have tried to listen, with great attention to his arguments, but unfortunately I have failed to be impressed with the arguments advanced by him as to why the particular date 1st August, 1931, is chosen for the operation of this Bill. If he had mentioned the 1st April, I might have understood why he had chosen that date. But I fully sympathise with him. He has frankly confessed to us the reason why he is taking so much interest in this matter. He said that he was approached, on the eve of the bye-election as a result of which he is here, by certain Mussalmans, interested in this matter and they have asked him, if not briefed him, to hold a brief for them here. He has discharged that obligation and I think his friends

ought to be grateful to him. But I do not see any substance in the arguments advanced by him. He says that this is interference with the Muslim law of succession. In that sense the Muslim law of *waqf*, the Muslim law of gift, and the Muslim law of wills, all these institutions of Muslim law may be considered as interfering with the Muslim law of succession. The Muslim jurists have deliberately given this power to every Muslim. There is the Muslim law of succession no doubt, but at the same time a Mussalman is given power to change the law of succession, if he so desires, by making a gift of the entire property to anybody, to the exclusion of his heirs. Similarly by the law of *waqf* he can give the whole property to charity if he likes. That is also an interference with the law of succession.

**Rai Bahadur S. C. Dutta :** That was not my argument, but that is the effect.

**Dr. A. Suhrawardy :** That is not my Honourable friend's argument, but that is the argument, which, if I understood my learned friend aright, was advanced to him by his Mussalman friends on the eve of the bye-election. Anyway, this is not the time nor the occasion for me to dilate upon the theory and philosophy of Muslim law. The question before us is a very simple one. The object of the Bill is, as it has very clearly and lucidly been explained, to give retrospective effect to the Act of 1913, and the object of the amendment is that the Bill should not come into operation immediately on its passing into law but on the 1st August, 1931. And if I understood my learned friend aright, he said that the object of this is to give the founders of the *waqf* opportunities of protecting their vested interests. I have failed to understand how it can do so. If the *waqif* is alive, he can, if he so desires, render the *waqf* valid by again executing a *waqfnama* and if any rights have accrued up to 1930, I do not see how any injustice or inequity will be caused to any person by the Act coming into operation immediately on its passage. With these words I oppose the amendment.

**Mr. D. G. Mitchell** (Secretary, Legislative Department) : Mr. President, the attitude of Government towards this Bill is one of benevolent neutrality. Government are prepared to accept the general feeling of the House, and if the general feeling is in favour of this Bill, we shall support it. But Government are not prepared to accept any textual amendments. So far as I could follow the Honourable the Mover of the amendment, he appeared to attack this Bill on two grounds. The first was that the proviso had so attenuated the Bill that it was no longer worth passing. I can advance no stronger argument against his own motion that the Bill should not come into operation for more than a year. If the Bill is so very attenuated as the Honourable the Mover would make out, then it will surely not be worth while to postpone its operation for another 13 months. The second argument which I understood the Honourable the Mover to make was that he wished to give time to the *waqifs* to re-create their trusts. There is nothing in this Bill to prevent a *waqif* from creating his trust again after the passage of the Bill, if he so desires. I oppose the motion.

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

“That clause 1 be re-numbered as clause 1 (1) and the following new sub-clause be inserted :

“(2) It shall come into operation on the 1st August, 1931.”

The motion was negatived.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**Mr. A. H. Ghuznavi :** Sir, I move that the Bill be passed.

The motion was adopted.

### THE HINDU WIDOWS' RIGHT OF INHERITANCE BILL.

**Rai Sahib Harbilas Sarda** (Ajmer-Merwara : General) : Sir, I move that the Bill to secure a share for Hindu widows in their husbands' family property be referred to a Select Committee consisting of the Honourable the Home Member, Mr. M. R. Jayakar, Mr. R. K. Shanmukham Chetty, Sir Hari Singh Gour and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be three.

Sir, I know that, as this is the last day for non-official Bills this Session, even if the Select Committee is appointed, we will not be able to carry this Bill through. I therefore will not take up much time in discussing the merits of the Bill. I will take only two or three minutes to support this motion for Select Committee.

This Bill, Sir, was ordered to be circulated by the Legislative Assembly on 21st January last. The Bill has been circulated and opinions have been received. I have carefully gone through them, and I find that the majority of opinions is in favour of the principle of the Bill. Of the opinions recorded, 86 are in favour and only 49 against it, while many people who were consulted offered no opinion. Of course many of those who favour the Bill suggest amendments. Among those who have opposed the Bill there are many who have opposed it simply because they misunderstood the provisions of the Bill. For instance one or two Local Governments think that the Bill disinherits sons in favour of widows. It does nothing of the kind ; the sons get their shares all right along with the mother.

The Honourable the Law Member, speaking in January last during the discussion of the Bill, said :

" I appreciate the object of the Bill which is to secure to the Hindu widow a share in the family property with full power of disposition..... The present attempt is not to elucidate what is obscure, but really a definite step towards the improvement of the widow's position in the family. To that extent the Honourable the Mover has my full sympathy..... If the majority of the community affected by this law are in favour of this departure then certainly Government would not stand in the way."

I hope, Sir, that by assenting to this motion for Select Committee, the House will be doing nothing but giving their approbation to the principle of the Bill. The principle of the Bill is simply to alleviate the lot of the Hindu widow, by giving her a share in the family property. The extent of the share and the nature of the share, i.e., whether it should be absolute or only in the nature of a widow's estate is not a matter of fundamental importance or vital to the Bill. That is a matter which the Select Committee may deal with. As the object of the Bill is simply

to alleviate the hard lot of the Hindu widow and give her some share in the family property, I hope the House will accept this principle of the Bill and accept my motion for reference of the Bill to Select Committee. Sir, I move.

**Mr. Amar Nath Dutt** (Burdwan Division : Non-Muhammadian Rural) : Sir, I oppose this motion for Select Committee, because accepting the Select Committee would be accepting the principles of the Bill. Sir, we have had enough of legislation interfering with the laws of the Hindus.

**Dr. A. Suhrawardy** (Burdwan and Presidency Divisions : Muhammadian Rural) : And of the Muhammadans.

**Mr. Amar Nath Dutt** : And of the Muhammadaans, as my Honourable friend says. The history of the Legislative Council in British India was formerly one of non-interference with the social customs and usages of the Hindus and Muhammadans and their laws of inheritance. The first encroachment was made by my Honourable friend, Rai Sahib Harbilas Sarda, and if I am right, I think to a certain extent by my Honourable friend, Dr. Gour, also. Sir, the Hindu law of inheritance is a thing, not of today or yesterday, and our Rishis of old formulated laws of inheritance several centuries ago, under which we have been living without any interference even under the Muhammadan rule and though some people say unjustly that Muhammadan rule was worse than British rule, the Muhammadans never interfered with the social customs or the religious usages of the Hindus.

**Mr. President** : But this is not a Government Bill.

**Mr. Amar Nath Dutt** : But it is a product of one of their pensioned officers. Sir, these are our new Manus and Parasaras. Instead of our ancient Rishis, we have our Gours and Sardas, and probably Mr. Jayakar is also an aspirant for that place. ....

**Rai Sahib Harbilas Sarda** : There is a saying, " If you have no case, abuse the plaintiff's attorney ". On that principle apparently my Honourable friend is proceeding.

**Mr. Amar Nath Dutt** : I would ask the Government to adopt the doctrine of *laissez-faire* in these matters. I do not know whether they will or not. The Honourable the Law Member nods and I hope I shall have his support in this matter. ....

**The Honourable Sir Brojendra Mitter** (Law Member) : You will.

**Mr. Amar Nath Dutt** : I hope that he will interfere as little as possible with the social customs of the orthodox Hindus. He and myself are at one about many things, and I think if we were to form a society of our own we would welcome a good many laws like these ; but what he and I would not like is to thrust our own views upon those orthodox Hindus who do not think with us. It may be that we are right and they are wrong, or that they are right and we are wrong ; however that may be, certainly we have no right to thrust our own views on them and change the law of inheritance against their wishes. In fact, if such laws are to be changed at all it should be with the unanimous voice of those who are affected by them. Therefore, I beg to oppose this motion for Select Committee because acceptance of this motion will mean acceptance of the principles of the Bill ; and I declare in no unmistakable terms that this is an alien Legislature ; and my friend, Rai Sahib Harbilas Sarda, has no right to legislate for orthodox Hindus like my friend over there, Pandit Bisheshwar Prosad Bhattacharya.

**Mr. Gaya Prasad Singh** (Muzaffarpur cum Champaran : Non-Muhamadan) : Before this debate proceeds further, may I ask the Government whether they will be pleased to express their attitude on this motion ? It might be helpful to us.

**The Honourable Sir Brojendra Mitter** : A little later.

**Dr. Nand Lal** (West Punjab : Non-Muhamadan) : Sir, I speak with great respect for the Honourable the Opposer of this measure, because I find he has been induced by the greatest possible respect for his own orthodox views. However, I may tell him, with great deference, that he is mistaken. This measure is of the greatest possible importance and of the greatest possible utility to the Hindu world. There is great criticism against Hindus that they do not think much of widows and that they treat them in some cases as chattel. When her husband dies, the collateral of her husband and the male heirs try to deprive the widow of her property. This is a most useful measure and I, for one, will thank the author of the Bill. I whole-heartedly support this measure, so far as the present request is concerned, namely, that it should be referred to a Select Committee. I may further say that I very strongly oppose the view which has been set forth by so learned a lawyer as my friend the opposer.

**Rao Bahadur D. R. Patil** (Bombay Central Division : Non-Muhamadan Rural) : Mr. President, I do not accept the principle of this Bill. The motives underlying the Bill are undoubtedly good, but my friend, Rai Sahib Harbilas Sarda, forgets the state of the Hindu widow in Bombay as well as elsewhere. I may tell this Honourable House that generally the Hindu widow, especially among backward classes, is an illiterate woman and she is under the influence of some of her relatives and does not know always what is for her own good. Under the law as it stands, she has only a limited interest. The object of the Bill is to give her an absolute estate. Without taking much of the time of the House, I would like to read the opinion of the Honourable Mr. Jadhav from the Bombay Presidency, as it will clearly give the real state of things regarding the Hindu widow in the Bombay Presidency so far as the backward classes are concerned. He says :

“ The condition of the Hindu widow, as Rai Sahib Harbilas Sarda says, is indeed very deplorable. After the death of her husband, as a member of a joint Hindu family she loses all rights in the family property except that of maintenance and she is completely at the mercy of her husband's relatives. It is desirable to give her some independence and make provision for her comfortable life, but I do not think that I should support the Bill in its entirety, especially when the condition of Maharratta women, that is to say, the backward classes in particular who are educationally backward, is taken into consideration. They are almost illiterate and do not know what is going on outside. They are, as a rule, under the influence of either their father or brother or some relative who may misuse his influence to his own profit at the cost of her property. In the Bombay Deccan such widows are induced and many a time duped by somebody and in this way they lose the right of enjoying their husbands' property. The passing of the present Bill will make the Hindu widows wholly independent of all ~~husbands~~ i.e. husband's relatives and the joint Hindu family will be a thing of the past. As soon as a brother dies, if not before, the family will be disrupted. The widow will claim her share and will either stay with her parents or somebody else : if she is made an absolute owner in her present state of illiteracy she will soon lose her property and may have to beg for her maintenance. Until widows are educated and taught to realise the responsibilities of ownership, to invest them with absolute ownership will be to their loss. They ought to be protected against themselves.”

From this quotation, Sir, you will be able to see that the time has not come when an absolute estate should be invested in the Hindu widow as

proposed by the Honourable Mr. Sarda. No doubt the Hindu widows ought to be protected, but this is not the way to protect their interests. We must find out some other way to improve their lot ; but if we pass this Bill into law as it is, it will be a great weapon in the hands of busy bodies in rural areas to play mischief against the interests of the Hindu widow, especially, as has been clearly stated in the quotation I have just read out. This Bill aims a death blow at the whole joint family system so it is really a revolution in the law of inheritance—a law which has been in force for so many years. Had the Government thought it proper to amend the law, I am quite sure that they would have been the first to bring in legislation to make the necessary changes in the law of inheritance so far as the interests of the Hindu widow are concerned. But as the Government did not take any steps in that direction and as the various High Courts did not make any recommendations to Government to effect the necessary change in the law of inheritance for the Hindu widow, I do not think that the time has come when this Bill should be put on the Statute-book. Now, I shall merely quote the opinion of a Commissioner in my province. He says clearly.....

5 P.M.

**Mr. President :** Order, order. The House now stands adjourned till tomorrow at 11 o'clock.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 16th July, 1930.