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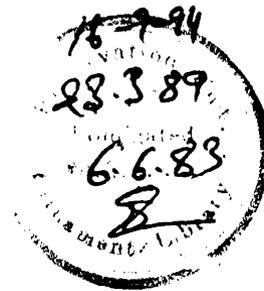
THE
LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume IV

(2nd September to 17th September, 1929)

FIFTH SESSION
OF THE
THIRD LEGISLATIVE ASSEMBLY
1929



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1930

Legislative Assembly.

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LEGISLATIVE ASSEMBLY.

Monday, 9th September, 1929.

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

QUESTIONS AND ANSWERS.

GRANT OF GRATUITIES ON RETIREMENT TO THE STAFF OF THE CURRENCY OFFICE, BOMBAY.

230. *Mr. M. S. Aney : With reference to the reply given to my starred question No. 798 (d), on the 23rd February, 1929, relating to the grant of gratuity to the staff in the Currency Office on retirement, will Government be pleased to state :

- (i) what distinction they make between the position of the employees of the State Railways and the staff in the Currency Office drawing the same salaries ; and
- (ii) what are the detailed grounds on which they see no justification so far for setting up the system of granting gratuities in the Currency Offices ?

The Honourable Sir George Schuster : Much of the purpose of the Honourable Member in asking this question is, I imagine, satisfied by the answer I gave him on the 5th September, 1929, to question No. 229. For the rest, I must explain that the granting of gratuities in addition to pension, or in addition to the Government contribution in a contributory provident fund, is not found in Government service except in the Railway Department. The decisions of the Government of India regarding the staff of the Currency Offices have been taken with reference to the conditions of service of Government servants in general. I trust the Honourable Member will agree with me that this, and not the comparison which he invites me to discuss, was the correct comparison to take.

DUTIES AND STATUS OF TOWN INSPECTORS OF POST OFFICES IN BOMBAY.

231. *Mr. Jamnadas M. Mehta : (a) Is it a fact that after the revision of 1927, the knowledge of investigation, as required by rule No. 238-II of Post Office and T., Volume IV, published by the Director General, Posts and Telegraphs, is one of the essential qualifications for a Town Inspector at the Presidency Towns and First Class Head Offices, as in the case of Sub-divisional Inspectors in the mofussil ?

(b) If so, are Government aware that Town Inspectors in Bombay were relieved of this important duty since the lowering in status of these appointments to the ordinary time-scale of clerks in 1920 ?

The Honourable Sir Bhupendra Nath Mitra : (a) The answer is in the affirmative.

(b) I understand that the statement of which the Honourable Member seeks confirmation is not wholly correct, and that what actually happened is as follows. To end of December, 1919, all Town Inspectors in Bombay were doing investigation work. From January, 1920, investigation work was concentrated in the hands of two Inspectors who initially received a pay of Rs. 100—150, and from September, 1920, the ordinary time-scale rate of pay.

Mr. Jamnadas M. Mehta : Is it or is it not a fact, that from the 1st December, 1919, the Town Inspectors were appointed out of the clerical cadre based on time-scale ?

The Honourable Sir Bhupendra Nath Mitra : I cannot say, Sir. Possibly that is the position. I did not make the selections.

Mr. Jamnadas M. Mehta : Is it or is it not a fact that these Town Inspectors were equal in status to the other clerks in the time-scale of 60—5—160 ?

The Honourable Sir Bhupendra Nath Mitra : I cannot say anything on that point. I was not here in 1919. I have collected, for the Honourable Member's benefit, the information which he had asked for and I cannot now say what was or was not a fact in 1919 and 1918. If the Honourable Member wants further information in regard to past history he must give me notice of questions.

Mr. Jamnadas M. Mehta : It is not past history. It is relevant to and connected with the question I have asked, viz.: Are Government aware that the Town Inspectors were relieved of this important work of investigation since 1920, and whether or not since this clerical grade came into force from the 1st December, 1919, in the city of Bombay the Town Inspectors were appointed from these clerks without any questions of seniority, merit or the passing of any examination ?

The Honourable Sir Bhupendra Nath Mitra : The Honourable Member seems to be imparting and not asking for information.

Mr. Jamnadas M. Mehta : Because.....

The Honourable Sir Bhupendra Nath Mitra : There is no question of "because". I have given the Honourable Member the information which he asked for, and if the Honourable Member wants to have further information I shall require notice of that.

Mr. Jamnadas M. Mehta : My question was.....

Mr. President : The Honourable Member has asked for notice.

Mr. Jamnadas M. Mehta : The Honourable Member has put words into my mouth which I have not used. I asked him whether it was not a fact that Town Inspectors were relieved of the duties of investigation from 1920 and that they were mere clerks from that day till 1927.

The Honourable Sir Bhupendra Nath Mitra : I have already given him the answer to that question.

Mr. Jamnadas M. Mehta : Is it not a fact that the Inspectors were in the same grade as that of clerks, i.e., time-scale of pay ?

The Honourable Sir Bhupendra Nath Mitra : I shall repeat the information which I just gave to the Honourable Member and I would request him to listen to it carefully :

“ To end of December, 1910, all Town Inspectors in Bombay were doing investigation work. From January, 1920, investigation work was concentrated in the hands of two inspectors who initially received a pay of Rs. 100—150 and from September, 1920, the ordinary time-scale rate of pay ”.

Mr. Jamnadas M. Mehta : Sir, this is not an answer to my question, viz. : Is it or is it not a fact that there were Inspectors who had no investigation work and that they were mere clerks appointed as Inspectors ?

The Honourable Sir Bhupendra Nath Mitra : That obviously follows from the answer I have given.

Mr. Jamnadas M. Mehta : Were there or not clerk-inspectors who were not in charge of investigation work ? I am referring to them only.

The Honourable Sir Bhupendra Nath Mitra : If the Honourable Member had listened carefully to my answer he would have found that that was the position.

Mr. Jamnadas M. Mehta : Is it not a fact that these Inspectors who had no investigation work between 1920 and 1927 were given charge of investigation work after the revision of 5th August, 1927, although they were mere time-scale clerks ?

The Honourable Sir Bhupendra Nath Mitra : I do not quite follow the Honourable Member's question.

Mr. Jamnadas M. Mehta : I shall repeat it with great pleasure. I am asking whether these time-scale clerk-inspectors who were not doing investigation work prior to 5th August, 1927, were after that date invested with the work of investigation over the heads of their seniors in the time-scale ? Is that so or not ?

The Honourable Sir Bhupendra Nath Mitra : I cannot answer that question. I have given the Honourable Member the information which he wanted and if he wants any further information the Honourable Member will have to give me notice of that.

Mr. Jamnadas M. Mehta : I have referred to the date of the order under which this revision was made in 1927. I cannot understand what notice the Honourable Member wants. I want to know from the Honourable Member whether or not these clerk-inspectors who are not in charge of investigation work before 1927, were from the 5th August, 1927, placed in charge of investigation work, although they belonged to the lower status of clerks on time-scale ?

The Honourable Sir Bhupendra Nath Mitra : I shall require notice of that question.

Mr. Jamnadas M. Mehta : May I refer the Honourable Member to his answer of 6th February, 1928, in which he says

The Honourable Sir Bhupendra Nath Mitra : If I said so, then the Honourable Member does not want any further information.

Mr. Jamnadas M. Mehta : As the Honourable Member has himself admitted, the inferior status of these clerk-inspectors in his reply of the 6th February, 1928, why has he sanctioned now the supersession of 350
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seniors clerks in the city of Bombay for the benefit of their juniors in the time-scale ?

The Honourable Sir Bhupendra Narth Mitra : I submit, Sir, that does not arise out of this question. If the Honourable Member will give me notice of that question, I shall certainly try my best to answer it.

Mr. Jamnadas M. Mehta : That does arise from part (a) of my question.

Mr. President : The Honourable Member wants notice in any case.

Mr. Jamnadas M. Mehta : I am prepared to oblige him.

The Honourable Sir Bhupendra Nath Mitra : It is not a question of obliging. This question does not arise out of part (a) of the question. I shall read part (a) of the question :

“ Is it a fact that after the revision of 1927, the knowledge of investigation, as required by rule No. 238-II of Post Office and T., Volume IV, published by the Director General, Posts and Telegraphs, is one of the essential qualifications for a Town Inspector at the Presidency Towns and First Class Head Offices, as in the case of Sub-divisional Inspectors in the mofussil ? ”

That, Sir, is the question. That does not refer to matters of supersession. Therefore as I said the Honourable Member's supplementary question in regard to supersession does not arise out of his main question.

Mr. Jamnadas M. Mehta : With all this specious pleading, I think, Sir, it arises, because it says that investigation was one of the essential qualifications which the clerk inspectors did not possess.

Mr. President : Order, order. Even if the question does arise, the Honourable Member wants notice. Is that correct ?

The Honourable Sir Bhupendra Nath Mitra : Quite so.

Mr. Jamnadas M. Mehta : I shall give him notice.

APPOINTMENT OF TWO INSPECTORS OF POST OFFICES IN BOMBAY IN CHARGE OF INVESTIGATION.

232. ***Mr. Jamnadas M. Mehta :** (a) Is it a fact that two posts of the status and pay of the Sub-divisional Inspector were subsequently created in 1923 in Bombay for pure investigation duties under the designation of Inspector of Post Offices in charge Investigation ?

(b) Is it a fact that these two new appointments were not given to the then existing Town Inspectors, as they did not possess the requisite departmental qualifications such as the passing of the departmental examination, though they had actually put in more than three years' service in that line ?

(c) Is it a fact that in 1923 the Postmaster General, Bombay, had to appoint to these new posts a clerk-Town Inspector who had qualified himself for Inspector's appointment and had already been on the waiting list, and another subject to passing the examination ?

The Honourable Sir Bhupendra Nath Mitra : The reply to part (a) of the question is in the affirmative except that two new posts were not created, but the pay of two existing posts on the ordinary time-scale rate of pay was raised. The answer to part (c) is also in the affirmative. In

regard to part (b), Government understand that one of the new appointments was given to a qualified Town Inspector on the time-scale rate of pay and the other was given to an official as reward for field service and subject to passing an examination, which he subsequently did pass.

Mr. Jamnadas M. Mehta : Is it a fact that when in 1923 these Inspectors' posts were created for the purpose of investigation, the existing Town Inspectors, on time-scale, who were nine in number, were not given any of these two posts because they were inferior in status and qualifications ?

The Honourable Sir Bhupendra Nath Mitra : I shall again read the answer I have given :

“ Government understand that one of the new appointments was given to a qualified Town Inspector and the other was given to an official as reward for field service and subject to passing an examination, which he subsequently did pass.”

Mr. Jamnadas M. Mehta : But none of these was given—is it correct or not ?—none of these two posts was given to any of the nine Town Inspectors selected from the clerical grade for want of the necessary qualification ?

The Honourable Sir Bhupendra Nath Mitra : I do not quite follow the Honourable Member's statement. If he wants to impart information to me, I am quite willing to take it.

Mr. Jamnadas M. Mehta : I want to obtain information as well as admissions.

The Honourable Sir Bhupendra Nath Mitra : So far as I am concerned, I have given him the information which I have collected on the subject.

Mr. Jamnadas M. Mehta : Will he please give me the information whether or not none of these newly-created posts were given to any one of the then existing nine Town Inspectors as were inferior in status and qualifications, although they were called “ Town Inspectors ” by courtesy ?

The Honourable Sir Bhupendra Nath Mitra : This is the information I have got. One of the new appointments was given to a qualified Town Inspector.

Mr. Jamnadas M. Mehta : One of the new appointments was given to a truly qualified Town Inspector properly so-called ?

The Honourable Sir Bhupendra Nath Mitra : If you say the qualified Town Inspector must have been one of the men who was previously on a time-scale rate of pay, and the other was given to an official as reward for field service and subject to passing an examination which he subsequently did pass.

Mr. Jamnadas M. Mehta : Sir, this is not answering my question. I am asking, “ out of the nine Town Inspectors who were in the clerical time-scale, was any one given any of these two posts ? ”

The Honourable Sir Bhupendra Nath Mitra : Sir, I cannot tell the Honourable Member more than I have told him. If he cannot understand my reply, I am very sorry.

Mr. Jamnadas M. Mehta : I quite understand your replies but they are not the replies to my question.

The Honourable Sir Bhupendra Nath Mitra : They are replies to the question, if the Honourable Member will read them at leisure. At present, apparently he seems to be very much imbued with a certain amount of prejudice. If he will read the reply I read out, he will see that he has got the reply to his question.

Mr. Jamnadas M. Mehta : Sir, is the allegation of the Honourable Member that I am imbued with prejudice an answer to my question ? He is himself dripping with prejudice. I am asking the Honourable Member, Sir, whether or not it is a fact, when these two Inspectors' posts for investigation were created in 1923, not one of them was given to any of the existing nine Town Inspectors because these were of the clerical grade on time-scale and were inferior in status, although they were called "Town Inspectors" by courtesy ?

The Honourable Sir Bhupendra Nath Mitra : I shall, Sir, repeat the answer I have given :

"Government understand that one of the new appointments was given to a qualified Town Inspector and the other was given to an official as reward for field service and subject to passing an examination, which he subsequently did pass".

Mr. President : Order, order. I think this is sheer waste of time. The Honourable Member wants to know whether any of these posts was given to any of the nine Town Inspectors. If the Honourable Member has no information, he might say that he requires notice.

The Honourable Sir Bhupendra Nath Mitra : Sir, as it is, I have got nothing more to say. My friend, Mr. Jamnadas Mehta wants to know whether any of these appointments was given to any of the existing nine Town Inspectors. If he had listened to my reply, which I shall repeat . . .

Mr. President : Order, order. He is not giving the answer to the question. Mr. Mehta wants to know whether any of these nine people were given any of these two posts. That is a clear-cut question, and if the Honourable Member wants to make inquiries, he might ask for notice. It is no use reading the same answer, which does not fulfil the requirements of the question.

The Honourable Sir Bhupendra Nath Mitra : Sir, it is not a question of my making further inquiries. I was saying that one of these appointments was given, and I was then proceeding to explain how that was apparent from my answer

Mr. President : Order, order. If one was given, say "one was given".

The Honourable Sir Bhupendra Nath Mitra : That was part of my answer, Sir

Mr. President : The Chair did not understand the Honourable Member to say so in so many words.

Mr. Jamnadas M. Mehta : I am very glad to hear the Honourable Member say "one was given" to one of these nine inspectors. Then I have nothing further to say except that my information is quite to the contrary.

APPOINTMENT AS INVESTIGATING INSPECTORS OF TOWN INSPECTORS OF POST OFFICES FOUND UNSUITABLE PREVIOUSLY.

233. ***Mr. Jamnadas M. Mehta** : (a) Is it a fact that the incumbents of 'Town Inspectors' posts between 1920 and 1927, who were found unsuitable in 1923 to hold the newly created posts of Investigating Inspectors on account of want of necessary qualifications, and who have not yet qualified themselves by passing any examination, have been considered competent since their orders of August, 1927, to hold these posts in supersession of the claims of their seniors in the general line ?

(b) If the reply to part (a) is in the negative, will Government be pleased to state why they have, since 1927, appointed them to the posts of Town Inspectors in Selection Grade ?

The Honourable Sir Bhupendra Nath Mitra : Government understand that the appointments were made by the Postmaster General with reference to the orders of Government contained in their letter of 2nd October, 1928, as he considered the men to be competent to hold the posts.

Mr. Jamnadas M. Mehta : Now can they be declared to be competent to hold the posts, when they did not possess the qualifications laid down and were not even senior to hundreds of their colleagues ?

The Honourable Sir Bhupendra Nath Mitra : The appointments were selection appointments, and it was for the officer who made the selection to decide whether the men were competent to hold the appointments or not.

Mr. Jamnadas M. Mehta : These are selection grade appointments, but after what tests and out of whom ? Selection out of the entire clerical grade ?

The Honourable Sir Bhupendra Nath Mitra : Yes.

Mr. Jamnadas M. Mehta : Is it a fact that a person who was 351st in the grade was selected as Town Inspector without possessing any special qualifications over 350 people who were senior ?

The Honourable Sir Bhupendra Nath Mitra : I do not know, Sir, and I am not prepared to discuss the merits of selection made by responsible officers who were authorised to make selection.

Mr. Jamnadas M. Mehta : Is it a fact or not, I say, that there was no selection on merit, those who were unfit for the work for seven years were suddenly considered fit for the same work ? Is it a fact or not ?

The Honourable Sir Bhupendra Nath Mitra : I should say, no. The officer was authorised to make the selection and he made the selection.

Mr. Jamnadas M. Mehta : Is the Honourable Member aware of Order No. A.O.-14, dated 14th November, 1921, of the Presidency Postmaster in this connection where he says :

"No official can now claim to be appointed a permanent city inspector. By virtue of a city officer being on the time-scale, pay his appointment is interchangeable with any clerk on the time-scale pay".

Was there any question of merit ?

The Honourable Sir Bhupendra Nath Mitra : I am not aware what the Presidency Postmaster had said in the year 1921. I am aware that the Postmaster General, who was the officer authorised to make the selection, made the selection.

Mr. Jamnadas M. Mehta : But between 1921 and 1927 no special qualification attached to these posts of Town Inspectors which were interchangeable with any clerk on time-scale pay ?

The Honourable Sir Bhupendra Nath Mitra : It may have been. That does not in my opinion affect the question.

Mr. Jamnadas M. Mehta : Therefore, there can be no question of special merit ?

The Honourable Sir Bhupendra Nath Mitra : That may be the opinion of my Honourable friend ; it is not my opinion.

Mr. Jamnadas M. Mehta : I am quoting from an order of the Presidency Postmaster.

The Honourable Sir Bhupendra Nath Mitra : It may be, but the Honourable Member is applying some interpretation of his own to the Presidency Postmaster's order.

Mr. Jamnadas M. Mehta : Is it a fact or not that when this clerical grade on time-scale was in force between 1920 and 1927 the Town Inspectors in Bombay were selected from clerks without reference to seniority, because the appointments gave them no special advantage and for all practical purposes they were clerks ?

The Honourable Sir Bhupendra Nath Mitra : That may have been. I do not understand what the Honourable Member means by " practical purposes ". The position was this. Before 1927, these appointments of Town Inspectors were included in the grade of the ordinary time-scale clerks, but still the persons who were appointed to fill the posts of Town Inspectors were selected by the Postmaster General. In 1927, the rates of pay of Town Inspectors were raised ; the posts were put into the selection grade. They were selection grade appointments, and the Postmaster General was the officer who was competent to make the selection. He made his selection and put in certain people into that grade. I am not prepared, on the floor of this House, to discuss the action of the Postmaster General in making selections for appointments for which he was the authority competent to make selections.

Mr. Jamnadas M. Mehta : I am not referring to the position as after 1927 at all. I am asking whether or not between 1920 and 1927 the Town Inspector in the city of Bombay was a clerk and nothing more so far as his pay and status were concerned.

The Honourable Sir Bhupendra Nath Mitra : He was obviously not a clerk. I have said that he was included for purposes of pay in the

ordinary time-scale, but he was specially selected for filling the particular appointment.

Mr. Jamnadas M. Mehta : Was he selected as an Inspector because he possessed the qualifications of an Inspector with knowledge of investigation work ?

The Honourable Sir Bhupendra Nath Mitra : I do not quite understand the Honourable Member's question.

Mr. Jamnadas M. Mehta : Does the Honourable Member mean to say that he was selected as Inspector because he had the specific qualifications of an Inspector properly so called ?

The Honourable Sir Bhupendra Nath Mitra : Obviously, it was because the Postmaster General or the Presidency Postmaster considered him to be more fit for that appointment than anybody else that he selected him to perform the duties of a Town Inspector.

Mr. Jamnadas M. Mehta : Is it or is it not a fact that the Honourable Member is quite misinformed on the question of the duties of Inspectors in the City of Bombay as compared with the duties of ordinary Inspectors of Post Offices ?

The Honourable Sir Bhupendra Nath Mitra : I am fully aware of that difference, but the question which the Honourable Member has asked was whether I was aware of the fact that the Inspector was purely a clerk.

Mr. Jamnadas M. Mehta : But is it or is it not a fact so far as Bombay City is concerned ?

The Honourable Sir Bhupendra Nath Mitra : The answer to the question whether the Inspector is a clerk or not is in the negative.

Mr. Jamnadas M. Mehta : But is it or is it not a fact that he was only a clerk ?

The Honourable Sir Bhupendra Nath Mitra : He was graded with clerks for the purpose of pay. But, obviously, as an Inspector he has got to inspect post offices ; he is not performing the duties of a clerk.

Mr. Jamnadas M. Mehta : Is it not a fact that as this clerk had to do out-door work with the public instead of being called a clerk, he was called an Inspector to impress the public of Bombay ? If this Bombay Town Inspector was a real Inspector, will the Honourable Member describe the difference between the duties of ordinary Town Inspector of Post Offices and the Town Inspectors of Bombay ?

The Honourable Sir Bhupendra Nath Mitra : I shall require notice of that question. If the Honourable Member had asked me for that information in his original question I would have supplied him with a statement giving the various duties. He can find them in the Post Office Manual. If he will give notice of that question, I will supply him with the information.

Mr. Jamnadas M. Mehta : Will he accept it from me that their substantial difference.....

Mr. President : Order, order. The Honourable Member is giving information and not seeking it.

Mr. Jamnadas M. Mehta : The answer to part (b) of my question has not yet been explained. Why were these clerk Inspectors appointed to selection grade posts in 1927 when they were ordinary clerks on time-scale ?

The Honourable Sir Bhupendra Nath Mitra : I have already answered that. The pay of these appointments was changed in the year 1927. They were put into selection grade appointments. The Postmaster General is the authority who is competed to make these selections and he selected them for these posts.

Mr. Jamnadas M. Mehta : Does the Honourable Member realise that this statement is quite contrary to fact and that his reply is inconsistent with the reply which he gave on the 6th of February, 1928, when he said :

“ No. A selection grade of Rs. 150—10—250 was introduced from 1st September, 1927, for Town Inspectors in Calcutta in the Government order dated 5th August, 1927, but it was clearly stated in that order that with the introduction of the revised scales the duties and responsibilities attaching to those posts would be enhanced. By a subsequent Government order dated 15th September, 1927, it was announced that the existing incumbents would possess no exclusive right of appointment to the new posts in the selection grade by virtue of their having held charge of the old inferior posts of Town Inspectorships.”

Does he now admit that these Town Inspectors in the City of Bombay were inferior Inspectors and not the selection grade Inspectors created by the order of 15th August, 1927, and that their appointment to the new selection grade amounted to supersession of hundreds of their seniors on time-scale ?

The Honourable Sir Bhupendra Nath Mitra : I do not admit that, Sir. What I said in these various answers to which my Honourable friend has referred was absolutely correct. There is no question of inferiority. Certain new appointments were created. It was definitely laid down that the people performing the duties of Town Inspectors at the time had no absolute claim to the new appointments, but still they were selection grade appointments. The Postmaster General was the authority who made the selection and it rests with him to select men for these appointments.

(Mr. Jamnadas M. Mehta wanted to put another supplementary question.)

Mr. President : Order, order : Next question.

PAY OF TOWN INSPECTORS OF POST OFFICES.

234. ***Mr. Jamnadas M. Mehta :** (a) Is it a fact that the question of appointments of Town Inspectors on the revised scale of Rs. 160—10—250 was discussed in a conference of the Postmasters General held after 1927 ?

(b) If the reply to part (a) be in the affirmative, will Government be pleased to state what the recommendations of that conference were in connection with Town Inspectors' appointments ?

(c) Is it a fact that the Postmasters General were also separately consulted about this subject and, if so, what were their recommendations ?

(d) Have Government accepted any of the recommendations referred to in parts (b) and (c) above and, if so, why ?

(e) Will Government be pleased to place all papers in this connection on the table of the House ?

The Honourable Sir Bhupendra Nath Mitra : (a) to (e). The Postmasters General's Conference is a purely departmental conference of a confidential nature, and Government are not prepared to communicate to the House either the recommendations of the Conference or the decisions arrived at by Government on those recommendations.

REINSTATEMENT OF DISPLACED TOWN INSPECTORS OF POST OFFICES.

235 *Mr. Jamnadas M. Mehta : (a) Is it a fact that the Government of India Order No. 14-P.T.E., dated the 2nd October, 1928, relates to the reinstatement of certain displaced Town Inspectors only on the occurrence of vacancies in the Town Inspectors' line ?

(b) Are Government aware that the Director-General has supplemented these orders by his No. 279-III|27, dated the 15th October, 1928, by ordering the Postmasters General to reinstate the displaced Town Inspectors by creating vacancies for them by transferring the senior incumbents, who were appointed *ad interim* as Inspectors, to the general line ?

(c) Will Government be pleased to state why they have committed a double supersession by transferring the senior men and filling the vacancies thus created by the displaced Inspectors ?

The Honourable Sir Bhupendra Nath Mitra : (a) The letter quoted deals with the matter mentioned amongst others. A copy of it was laid on the table of the House on the 28th January, 1929, in reply to Khan Bahadur Sarfaraz Hussain Khan's unstarred questions Nos. 98 and 133.

(b) Yes, the supplementary instructions were issued by the Director General with the concurrence of Government.

(c) In order to give some relief to officials who had been displaced from posts of Town Inspectors in First Class Head Offices and were considered by heads of Circles to be competent to discharge duties of Town Inspectors, special measures to restore them to their former posts were taken by the transfer of the newly appointed Town Inspectors to other posts on equal pay where this could conveniently be done. This action does not amount to a double supersession.

Mr. Jamnadas M. Mehta : Is the Director General's letter of 15th October, 1928, to be taken as superseding the Government of India's letter of the 2nd October, 1928, inasmuch as both are inconsistent ?

The Honourable Sir Bhupendra Nath Mitra : There is no inconsistency in the two.

Mr. Jamnadas M. Mehta : Does the Honourable Member admit that in the second letter of 15th October, 1928, the Director General wants the heads of circles to give special consideration to these Town Inspectors even by readjustments of posts, whereas the orders of Government, dated the 2nd October, 1928, does not ?

The Honourable Sir Bhupendra Nath Mitra : I am sorry I have not got a copy of the letter here.

(Mr. Jamnadas M. Mehta supplied the Honourable Member with a copy of the letter.)

The Honourable Sir Bhupendra Nath Mitra : There is no inconsistency as I thought. The Director General's letter simply refers to certain supplementary instructions. He says definitely :

" In giving effect to the orders of the Government of India, the Director General desires that the following supplementary instructions should be followed."

Mr. Jamnadas M. Mehta : Although they are called supplementary, they go far beyond the order of 2nd October, 1928. Is it not a fact that what did not exist in the order of 2nd October, 1928, is to be found in the order of the 15th October ? Does not the latter require that whether there is a vacancy of a Town Inspector, or not, it is to be created for the benefit of these clerk Inspectors by transferring the incumbent of the Town Inspectorship to the general line ? This was not in the original order.

The Honourable Sir Bhupendra Nath Mitra : The answer to that is in the negative.

Mr. Jamnadas M. Mehta : Will the Honourable Member read the order of the Director General which calls upon the heads of Circles to find jobs for these clerk Inspectors and by a certain date to report to him what has been done with reference to the Town Inspectors ? Was this in the original order ?

The Honourable Sir Bhupendra Nath Mitra : That is perfectly all right ; but it does not follow that any instructions that were issued by the Director General in that letter were in any way inconsistent with the order of the Government of India.

Mr. Jamnadas M. Mehta : Was there anything in the letter of the Government of India of the 2nd October, 1928, whereby the existing incumbents of Town Inspectors' posts were to be transferred for the purpose of making a vacancy for these clerk Inspectors ?

The Honourable Sir Bhupendra Nath Mitra : No ; but what the Government of India said was that people who had been displaced from the appointments of Town Inspectors, if they were considered competent by the Heads of Circles for the newly created appointments of Town Inspectors, should be put back into those appointments as soon as convenient.

Mr. Jamnadas M. Mehta : Even by creating vacancies where there were none ?

The Honourable Sir Bhupendra Nath Mitra : I am afraid my Honourable friend will never be able to understand the position. These are selection grade appointments and it absolutely rests with the Postmaster General to select anybody to fill these appointments.

Mr. Jamnadas M. Mehta : He can do so when a vacancy occurs.

The Honourable Sir Bhupendra Nath Mitra : Obviously : if there is no vacancy, the appointment could not have been made.

Mr. Jamnadas M. Mehta : Does the Honourable Member know that vacancies were ordered to be created by the letter of the 15th October, 1928 ?

The Honourable Sir Bhupendra Nath Mitra : Vacancies cannot be created ; they can only be created by the creation of new appointments which the Postmaster General is not authorised to sanction, or by getting rid of somebody.

Mr. Jamnadas M. Mehta : Is the Honourable Member aware that some people were transferred to posts of Head Clerks in the general line in order to create vacancies for these clerk Town Inspectors ?

The Honourable Sir Bhupendra Nath Mitra : The vacancy then is in the selection grade itself. I have for the last 15 minutes or half an hour tried to impress upon my friend the nature of these appointments. They are all selection grade appointments and in these appointments are included Town Inspectors, Head Clerks, and people of that sort. But every appointment to a selection grade is made by selection which is done by the Postmaster General himself. Therefore, the matter rests entirely with him. In the first place, he has got to select a man for promotion to the selection grade and then he can post him to any particular duties, provision for the discharge of which is included in the selection grade.

Mr. Jamnadas M. Mehta : Is it then the fact that in selection grade posts the selection is made purely arbitrarily and that the existing order.....

Mr. President : Order, order. The Honourable Member is going far beyond the scope of supplementary questions.

Mr. Jamnadas M. Mehta : You will notice, Sir, that the Honourable Member has not answered even one question of mine ?

Mr. President : The Honourable Member must then table a Resolution.

Mr. Jamnadas M. Mehta : I have tabled a Resolution already, but there is no likelihood of its being reached.

NUMBER OF DISPLACED TOWN INSPECTORS OF POST OFFICES AND NUMBER OF MEN SUPERSEDED BY THEM.

236. **Mr. Jamnadas M. Mehta :** (a) Will Government be pleased to state whether the senior incumbents of the Town Inspectors' posts who were appointed *ad interim* since 21st May, 1928, were found unfit or incapable to efficiently discharge their duties ?

(b) Will Government be pleased to state the number of such displaced Town Inspectors in the whole of India and the number of senior men whom they have superseded ?

The Honourable Sir Bhupendra Nath Mitra : (a) Government have no information on the subject. In this connection the attention of the Honourable Member is invited to part (a) of the reply given in this House to his starred question No. 898 on the 5th March, 1929.

(b) I do not quite follow this question as I do not understand what is meant by "such displaced Town Inspectors". Part (a) of the question does not help me as it does not refer to any displacement. In any case Government do not consider that any useful purpose would be served by collecting any information on this subject.

Mr. Jamnadas M. Mehta : Is it not a fact that all over India about 4,000 people have been superseded for the benefit of eighty people ?

The Honourable Sir Bhupendra Nath Mitra : I do not know, Sir.

Mr. Jamnadas M. Mehta : Will the Honourable Member please inquire ?

The Honourable Sir Bhupendra Nath Mitra : No, Sir. I have already said that in the opinion of Government no useful purpose would be served by making that inquiry.

Mr. Jamnadas M. Mehta : Are the claims and rights of 4,000 people no matter of importance to Government ?

The Honourable Sir Bhupendra Nath Mitra : It is not a question of 4,000 people. I have already said that there are no absolute claims. It is purely a question of selection, that is, these people were admitted to selection grade appointments by the Post Masters General with whom the fullest discretion lay. By making inquiries, I shall be simply weakening the responsibility of the Post Masters General in the matter.

Mr. Jamnadas M. Mehta : Does the Honourable Member realise that, although these were selection grade posts, it is obvious that appointments should depend on some minimum qualifications either of seniority or of passing an examination. In this particular instance, no such rule is being observed simply because these 80 people are concerned ? Is it so ?

The Honourable Sir Bhupendra Nath Mitra : It is not a fact.

Mr. Jamnadas M. Mehta : What is not a fact ?

EXAMINATIONS FOR POSTS OF SUB-DIVISIONAL INSPECTORS AND HEAD CLERKS TO SUPERINTENDENTS OF POST OFFICES.

237. ***Mr. Jamnadas M. Mehta :** (a) Is it a fact that departmental examinations were in vogue since 1912 only for the posts of Sub-divisional Inspectors and Head Clerks to Superintendents of Post Offices ?

(b) If the reply to part (a) be in the affirmative, will Government be pleased to state the reasons that led them to grant exemption from the examination to the existing incumbents ?

The Honourable Sir Bhupendra Nath Mitra : (a) Yes, in the Bombay Circle only. The system was subsequently introduced in other Circles.

(b) It is presumed that by the term "existing incumbents" the Honourable Member refers to those Town Inspectors who were attached to First Class Head Offices. In the first order, dated the 5th August, 1927, existing incumbents of Town Inspectorships were, among others, exempted from passing the selection grade examination. In their final orders No. 14-P.T.E., dated the 2nd October, 1928, Government restricted this exemption to those Town Inspectors "who have already rendered three years' satisfactory service in that capacity" and added that their confirmation should be at the discretion of the Director General. The exception was made in view of the long period for which these men had already discharged the duties of these posts satisfactorily.

Mr. Jamnadas M. Mehta : Will the Honourable Member state what he means by "long period" ? Is it not that in some cases, the 'long period' will be three years, only this year ?

The Honourable Sir Bhupendra Nath Mitra : I do not know, Sir. It must have come to three years before this year because the men were confirmed apparently before this year.

Mr. Jamnadas M. Mehta : Long period in any case, often comes to three years. Is that a fact, Sir ?

The Honourable Sir Bhupendra Nath Mitra : As the Government order stands, three years of satisfactory service is the period provided for.

Mr. Jamnadas M. Mehta : Is the Honourable Member aware that clerks in the same time-scale before 1927 who held these posts for more than three years are not getting these selection grade posts, and will he say, why ?

The Honourable Sir Bhupendra Nath Mitra : Quite possible, because it is not only three years, but it is three years' satisfactory service. I have come across cases where the Post Master General would not retain a man in the selection grade or confirm him in the selection grade although he had put in three years' service, because the Post Master General did not consider the service satisfactory.

Mr. Jamnadas M. Mehta : Is there any authority or proof of the statement that the Honourable Member is making ? On the contrary is it not a fact, one of these favourite Town Inspectors, whose service was considered satisfactory, was found stealing stamps ?

The Honourable Sir Bhupendra Nath Mitra : I have no information.

Mr. Jamnadas M. Mehta : Will the Honourable Member kindly refer to the book, I have just given him ; there he will find that some of the Town Inspectors were found guilty of offences of stealing stamps ?

The Honourable Sir Bhupendra Nath Mitra : I know nothing about that. On this point, if the Honourable Member would give notice of a question, I shall inquire.

Mr. Jamnadas M. Mehta : Is it a fact that these Town Inspectors will, under the new orders, have the right to the selection grade post without examination while those who supervised their work will be subject to the new examination ?

The Honourable Sir Bhupendra Nath Mitra : I do not quite see how those people could have been supervising Town Inspectors ?

Mr. Jamnadas M. Mehta : The Head Clerks who are now subject to this examination will be supervised by the Town Inspectors who have not passed the examination ? The Town Inspectors are not required to pass the examination because they have been exempted.

The Honourable Sir Bhupendra Nath Mitra : I understand that the work of Head Clerks is not supervised by Town Inspectors.

RULES FOR PROMOTION OF TOWN INSPECTORS OF POST OFFICES.

238. ***Mr. Jamnadas M. Mehta :** (a) Is it the intention of Government that a three years' tenure in the post of a Town Inspector in the grade of Rs. 60—5—160 should make the incumbent fit without any test or examination, seniority or juniority, to hold the superior post of a Town Inspector in the Selection Grade ?

(b) If the reply to part (a) be in the affirmative, why is not the same rule applied to the incumbents of the same Selection Grade in the general line and why are officials not kept on probation for three years and exempted from examination before confirmation ?

(c) If the reply to part (a) is in the negative, will Government state the reasons for exempting the displaced Town Inspectors from appearing for the examination ?

(d) Will Government state why they do not apply to the displaced Town Inspectors the principle of seniority adopted by them for the appointments of Sub-Postmasters, Kalbadevi and Mandvi, and Assistant Postmasters, Bombay G. P. O., which posts have been recently raised to gazetted rank ?

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

(b) Does not arise.

(c) The Honourable Member is referred to my reply to part (b) of his question No. 237.

(d) I would refer the Honourable Member to the explanation given in letter No. P.T.E. of the 2nd October, 1928, a copy of which was placed on the table of the House on the 28th January last.

INCONSISTENCY OF ORDERS REGARDING APPOINTMENTS OF TOWN INSPECTORS OF POST OFFICES.

239. ***Mr. Jamnadas M. Mehta :** (a) Was not the revised order of the Government of India No. 11-P.T.E., dated 15th September, 1927, as interpreted by the Director General in his letter, dated 11th February, 1928, issued by both the authorities after deliberate consideration ?

(b) Was the order of the Government of India No. 14-P.T.E., dated 2nd October, 1928, as supplemented by the Director General in his No. 229-III|27, dated 15th October, 1928, issued by both the authorities after careful consideration ?

(c) Are Government aware of the inconsistency between order No. 14-P.T.E., dated 2nd October, 1928, and the Director General's order No. 229-III|27, dated 15th October, 1928 ? If so, will Government please state the reason and also state if they propose to take immediate steps to set this right ?

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

(b) Yes.

(c) There is no inconsistency. The Director General's orders of the 15th October, 1928, were supplementary to the Government letter of the 2nd October, and the measures suggested in it were designed to ensure the earliest possible relief to the displaced Town Inspectors, consistent with the decisions taken by the Government of India.

JUSTIFICATION FOR THE ISSUE OF ORDERS REGARDING THE REINSTATEMENT OF CERTAIN TOWN INSPECTORS OF POST OFFICES.

240. ***Mr. Jamnadas M. Mehta :** Will Government please state the justification for the issue of orders No. 14-P.T.E., dated 2nd October, 1928, after the considered reply (*vide* Legislative Assembly Debates, dated 1st February, 1928) of the Honourable Sir Bhupendra Nath Mitra ?

The Honourable Sir Bhupendra Nath Mitra : The Legislative Assembly Debates for the 1st February, 1928, do not show any considered reply given by me on the subject of appointment or pay of Town Inspectors. The Honourable Member over there has probably been misled by some of his friends who suggested this question. The justification for the issue of the orders contained in the letter from the Government of India in the Department of Industries and Labour No. 14-P.T.E., dated 2nd October, 1928, a copy of which is in the Library, will be found in the letter itself.

Mr. Jamnadas M. Mehta : Instead of the 1st February, it ought to be 6th February.

The Honourable Sir Bhupendra Nath Mitra : That is quite a different story.

Mr. Jamnadas M. Mehta : In view of the change in the date, will the Honourable Member kindly answer now ?

The Honourable Sir Bhupendra Nath Mitra : If he now puts down 6th February, I shall certainly examine the question. I only looked up the papers of the 1st February and the answer that I have already given was with reference thereto.

Mr. Jamnadas M. Mehta : There is no question of any of my friends having misled me. On the other hand, it is only their enemies over there who may be misleading.

CONFIRMATION OF A SUB-DIVISIONAL INSPECTOR OF POST OFFICES IN THE BOMBAY CIRCLE.

241. ***Mr. Jamnadas M. Mehta :** (a) Is it a fact that the confirmation of one Sub-divisional Inspector in the Bombay Circle, who was decorated with the title of Khan Saheb for meritorious work earlier, and who has put in eight years' satisfactory service in that capacity, is made dependent upon the passing of a departmental examination ?

(b) Do Government propose to treat this Sub-divisional Inspector as less qualified and less efficient than the displaced Town Inspectors who have been favoured with these appointments with an exemption from the departmental examination ?

The Honourable Sir Bhupendra Nath Mitra : (a) The officer referred to was, as a reward for field service, appointed in 1921 as Inspector, subject to his passing the departmental examination. He appeared at that examination and failed to pass it.

(b) The answer is in the affirmative.

PROMOTION OF CERTAIN TOWN INSPECTORS OF POST OFFICES AND OTHER OFFICIALS IN THE SAME CADRE.

242. ***Mr. Jamnadas M. Mehta :** (a) Is it a fact that Assistant Postmasters General and Superintendents of Post Offices are considered officers of the same cadre for purposes of promotion, even though the former get a duty allowance in addition to their substantive pay ?

(b) Will Government be pleased to state why the same principle should not be made applicable to Town Inspectors in the grade of Rs. 60-5-160 and other officials of the same cadre ?

The Honourable Sir Bhupendra Nath Mitra : (a) The answer is in the affirmative.

(b) There is now no separate cadre of Town Inspectors. Town Inspectors attached to offices other than First Class Head Offices draw pay according to the ordinary time-scale, together with a duty allowance. Posts of Town Inspectors attached to First Class Head Offices carry the pay of selection grade appointments in view of the nature of their duties and responsibilities.

LOCATION OF THE WIRELESS BRANCH OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS.

243. *Maulvi Muhammad Yakub : Will Government be pleased to refer to starred question No. 226 answered on the 8th September, 1928, and state :

- (a) *re para. (i)* whether the Director of Wireless is required to go on tour during the Simla season ;
- (b) *re para. (ii)* why the Director General's Camp Office *only* is required in Delhi during winter and not the remaining portion of the Wireless Branch also ;
- (c) *re para. (iv)* as to what are those conveniences which are obtainable for Wireless Branch by remaining in Simla and which are not possible for the Branch to obtain by any means while in Delhi during cold weather ;
- (d) *re para. (v)* why not ; what is delaying the matter and why the Branch is not treated like other Branches in *all* respects ; and
- (e) *re para. (vi)* what are the modifications under consideration and when the decision in the matter is likely to be arrived at and whether that will affect the Wireless Branch in any way, if so, how ; if not, why not ?

Mr. P. G. Rogers : (a) Yes, occasionally. But during the winter he is required to be on tour more frequently.

(b) In the interests of economy and for want of accommodation it has not been practicable to have the Wireless Branch as a whole moving between Simla and Delhi.

(c) The Honourable Member presumably desires to know what are the advantages referred to in the reply to the previous question. There are a number of administrative reasons, of which the most important is the difficulty of obtaining sufficient residential accommodation in New Delhi and the additional expenditure which would be incurred in allowances if Government accommodation could not be provided.

(d) For the reasons already stated.

(e) The modification referred to has already been made by reducing to a minimum from this year the strength of the Director General's Office which moves to Simla, but it is too early to state how this modification will affect the Wireless Branch.

WORK DONE BY THE WIRELESS BRANCH OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS DURING WINTER.

244. *Maulvi Muhammad Yakub : Will Government be pleased to state in detail the nature of work done in Simla by the Wireless Branch during winter, that is, during the absence of the Director of Wireless, and which is not at all possible for the Branch to perform if it migrated to Delhi ?

Mr. P. G. Rogers : There is no work done in Simla by the Wireless Branch during the winter, which could not be done in Delhi if the whole Branch migrated accompanied by its records.

NAMES OF ATTACHED OFFICES RETAINED IN SIMLA THROUGHOUT THE YEAR.

245. *Maulvi Muhammad Yakub : What are the attached offices (excluding a few Branches of Army Headquarters) retained in Simla throughout the year like the Wireless Branch ?

The Honourable Sir James Orerar : In addition to some Branches of Army Headquarters, the following attached offices remain in Simla throughout the year :

- (1) Office of the Military Adviser-in-Chief, Indian State Forces ;
- (2) Government of India Press, Simla ;
- (3) Office of the Superintending Engineer, Simla Imperial Circle ;
- (4) Office of the Director of Army Audit, Simla ; and
- (5) Wireless Branch of the Director General of Posts and Telegraphs, of which only a portion moves to Delhi.

REPORT BY RAI BAHADUR GANGULI ON THE WIRELESS BRANCH OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS.

246. *Maulvi Muhammad Yakub : Will Government be pleased to lay on the table (i) a copy of Rai Bahadur Ganguli's report on the Wireless Branch of the Office of the Director General of Posts and Telegraphs; and (ii) a copy of Government decision on the suggestions made by Rai Bahadur Ganguli about the migration and location of the Wireless Branch ?

(b) If the papers asked for cannot be laid on the table, why not ?

(c) If no action has been taken in regard to this matter, why not ?

The Honourable Sir Bhupendra Nath Mitra : (a), (b) and (c). Mr. Ganguli submitted a report on the Office of the Director General as a whole, which contains various paragraphs relating to the work of the Wireless Branch. The report is a departmental document of a confidential character which is not in print, and is not intended for publication. A copy of it cannot therefore be laid on the table of the House. The various suggestions made in it are being examined by the Director General gradually, and orders of Government are being taken from time to time where these are required under standing arrangements. It is not possible to deal with all the suggestions simultaneously without causing a disorganisation of work in the Office of the Director General.

Mr. Gaya Prasad Singh : May I know why the Government of India do not issue all orders marked "Confidential" so as to burke any discussion on the floor of this House ?

Mr. President : Order, order.

REASONS JUSTIFYING THE MOVE OF THE SUPERINTENDENT OF THE WIRELESS SECTION OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS AND THE STENOGRAPHER TO THE DIRECTOR OF WIRELESS TO DELHI FOR THE WINTER.

247. ***Maulvi Muhammad Yakub :** (a) Will Government be pleased to state whether it is a fact that only the Superintendent of the Wireless Section and the stenographer to the Director of Wireless move between Simla and Delhi with the migratory portion of the Director General of Posts and Telegraphs' Office during the winter since the formation of that section (1920), whereas the other clerks remain in Simla throughout the year because the headquarters of that section is located in Simla ?

(b) If reply to part (a) be in the affirmative, will Government be pleased to state reasons in detail justifying the move of these two officials only every year ?

(c) Is there any specific order of Government that only the Superintendent of Wireless Section and the stenographer will continue moving every year with the migratory portion of Director General's Office and other clerks will not ? If so, will Government be pleased to furnish the House with a copy of order ?

(d) Is not the presence of Superintendents of Sections necessary at the headquarters in the interest of the service ? If so, what is the necessity for the Superintendent of the Wireless Section to move ?

(e) Has the Director of Wireless ever considered the question of the move of the Superintendent of his Section ? If so, will Government be pleased to furnish the House with a copy of the decision arrived at in the matter, and if not, to state reasons ?

(f) Did not the Director General consider the question of moving the Superintendents of Directorate and decide that Superintendents will not, in future, move with the migratory portion of Director General's Office ? If so, when will that decision be given effect to ?

Mr. P. G. Rogers : (a) The facts stated by the Honourable Member are substantially correct.

(b) The Superintendent is the only official who is conversant with the different classes of work done in the Wireless Branch, and is of particular use in the absence of the Director of Wireless on tour. The stenographer attached to the Director must obviously accompany this officer.

(c) The reply to the first part is in the negative. The latter portion does not therefore arise.

(d) The interests of the service are best served by moving the Superintendent with the Director of Wireless for the reasons already stated in reply to part (b) above.

(e) The Superintendent is taken to Delhi as the result of due consideration every year and for the reasons already stated.

(f) No such decision has been reached, but it was decided for the current year that the Superintendents should remain in Delhi.

REASONS FOR APPOINTMENT OF A JOINT SECRETARY IN ADDITION TO A FINANCIAL ADVISER IN THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS.

248. *Maulvi Muhammad Yakub : Will Government be pleased to state :

- (a) The number of clerks in each grade, officers and special officers, in the Director General of Posts and Telegraphs' Office before the appointment of the Financial Adviser, Posts and Telegraphs.
- (b) The number of such clerks and officers as at part (a) during 1926, 1927 and 1928.
- (c) The necessity for appointing a Joint Secretary in addition to the Financial Adviser ; if due to increase in the work of administrative and other nature in Posts and Telegraphs Department, the necessity of placing the services of Rai Bahadur Ganguli again and again at the disposal of the Director General to examine the work of Posts and Telegraphs Department with a view to make every possible reduction in the Department (both Directorate and Circle Offices).
- (d) Whether the Administration of Posts and Telegraphs Department became unmanageable and beyond the Director General's control, which necessitated the appointment of a Joint Secretary and reduction in the clerical staff ?
- (e) What is the present position of the Director General in regard to his administrative and executive powers, etc. ?
- (f) If any important administrative or executive powers of the Director General have been recovered and given to the Financial Adviser and Joint Secretary to justify their appointments ; if so, what are those powers, and if not, what special and additional powers do these officers possess ?
- (g) From which Department's Budget the pay, etc., of the Joint Secretary is drawn and under what ' Head ' ?
- (h) What are the numbers of (i) Secretaries, (ii) Deputy Secretaries, (iii) Under Secretaries and (iv) Joint Secretaries and how many of them are non-I. C. S., and the Departments to which they are attached ?
- (i) What are the appointments reserved for I. C. S. men in which non-I. C. S. men cannot be appointed ?
- (j) What the reasons are, in detail, justifying the appointment of a Joint Secretary in addition to a Financial Adviser, Posts and Telegraphs ?

The Honourable Sir Bhupendra Nath Mitra : (a) and (b). A statement will be sent to the Honourable Member.

(c) The Financial Adviser represents the Finance Department, whose powers he exercises in respect of all Post and Telegraph matters. He is not concerned with the secretarial or administrative work of the Department of Industries and Labour or the Posts and Telegraphs Department. The appointment of a Joint Secretary is a temporary measure designed to give the Member in charge of the Department of Industries and Labour secretarial assistance in dealing with cases of the Posts and Telegraphs Depart-

ment and the Public Works Department during a period of reorganisation. It has no connexion with, and does not connote, any increase in the work of the Posts and Telegraphs Department, whether administrative or otherwise. The last part of the question, therefore, does not arise.

(d) No.

(e) The Director General is the administrative head of the Posts and Telegraphs Department and exercises the administrative and executive powers of the head of a Department, in which there has been no curtailment.

(f) No such change has been made. The second question, therefore, does not arise. The Financial Adviser, as I have said, represents the Finance Department, and the Joint Secretary does the work indicated in my reply to part (c) of the question.

(g) The pay of the Joint Secretary is met from the budget grant of the Department of Industries and Labour, under the head "General Administration".

(h) A statement giving the information required is placed on the table.

(i) The Honourable Member's attention is invited to sections 98-100 and 101 (4) of the Government of India Act. The appointments ordinarily reserved for members of the Indian Civil Service are detailed in Appendix I of the Home Department Resolution No. 2559-Establishments, dated the 1st December, 1920, which was published in the supplement to the Gazette of India of the 4th December, 1920. There have been many changes in this list and no up-to-date list is available at present.

(j) The Honourable Member is referred to my reply to part (c) of the question.

Statement showing the number of Secretaries, Joint Secretaries, Deputy Secretaries and Under Secretaries employed in the Government of India Secretariat.

Departments.	Secretary.		Joint Secretary.		Deputy Secretary.		Under Secretary.	
	I.C.S.	Non-I.C.S.	I.C.S.	Non-I.C.S.	I.C.S.	Non-I.C.S.	I.C.S.	Non-I.C.S.
Home Department	1	..	1	..	1	..	1	..
Foreign and Political Department ..	2	..	1	..	1	1	..	2
Finance Department	1	..	..	..	1	(a)1	..	1
Financial Adviser, Military Finance ..	..	..	(b)1	..	..	..	..	..
Army Department	1	..	..	..	..	1	..	..
Legislative Department	1	..	1	..	1	..	..	..
Legislative Assembly Department ..	..	1	..	..	..	..	..	..
Department of Commerce	1	..	1	..	..	..	..	..
Railway Department (Railway Board).	..	(c)1	..	..	..	(c)1	..	..
Department of Education, Health and Lands.	1	..	1	..	1	..	1	..
Department of Industries and Labour.	..	1	..	1	1	..	..	1

(a) Designated as "Budget Officer" with the status of Deputy Secretary.

(b) Designated as "Financial Adviser, Military Finance" with the status of Joint Secretary.

(c) The status of Secretary and Deputy Secretary in the Railway Department is lower than that of similar appointments in other Departments.

ALLEGED PARTIAL TREATMENT OF LADY CLERKS IN THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS.

249. *Maulvi Muhammad Yakub : (a) Will Government be pleased to state in detail the reasons for differential and partial treatment, also special favour, if any, to lady clerks in the Director General, Posts and Telegraphs' Office ?

(b) Is it a fact that lady clerks have to perform light and less responsible duty ?

(c) Is it a fact that male clerks have to perform hard and more responsible duty ?

(d) If replies to parts (b) and (c) are in the negative, will Government be pleased to state names of lady clerks and their duties ; and if the replies are in the affirmative, are Government prepared to give due consideration to the matter with a view to give equal privilege to male clerks ? If not, why not ?

Mr. P. G. Rogers : (a) The only differential treatment accorded to lady clerks is that, under the orders of the Government of India, they are given a higher starting pay in the clerical time-scale.

(b) No.

(c) No.

(d) There are altogether four lady clerks in the Office of the Director General, Posts and Telegraphs. Miss deMonte and Miss Devine, First Division clerks, are employed as stenographers, while Mrs. Harrington and Miss Fox, Second Division clerks, are employed as typists. The last part does not arise.

OFFICE HOURS OF CLERKS AND MENIALS IN THE SECRETARIAT AND ATTACHED OFFICES OF THE GOVERNMENT OF INDIA AT DELHI AND SIMLA.

250. *Maulvi Muhammad Yakub : (a) Will Government be pleased to lay on the table copies of office memoranda on the following subjects :

(i) fixation of office hours of the clerks and menials in the Secretariat and attached offices of the Government of India ;

(ii) fixation of office hours of the clerks and menials in the Secretariat and attached offices, if any, required to remain in Simla during winter months ;

(b) If no office memoranda on the subjects at parts (a) and (b) above have yet been issued, what orders do Government propose to issue on the subjects ? If not, why not ?

(c) Will Government be pleased to lay on the table of the House the Government decision about the permanent location in Delhi of the attached and subordinate Departments (including unimportant Branches of the Secretariat) ?

The Honourable Sir James Orerar : (a) and (b). Government have not issued and do not consider it necessary to issue any general orders on the subject, as the question of office hours is, within limits, one for each Department to decide for itself.

(c) The Honourable Member is referred to the answer which I gave on the 15th February, 1928, to Mr. Kelkar's question No. 93. Since then one more office, that of the Audit Officer of the Indian Stores Department, has been permanently located in New Delhi.

Diwan Ohaman Lall : May I know, Sir, what is the definition of a "menial" ?

The Honourable Sir James Orerar : It is not clear to me, Sir, how the question arises.

Diwan Ohaman Lall : The question relates to clerks and menials. What is a "menial" ?

The Honourable Sir James Orerar : I think, Sir, this should more properly be addressed to the Honourable Member who put the question.

ACCOMMODATION IN SIMLA OF THE WIRELESS BRANCH OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS.

251. *Maulvi Muhammad. Yakub : Will Government be pleased to refer to starred question No. 227, answered on the 8th September, 1928, and state :

- (a) Regarding paragraph (i) whether the question of accommodating the Wireless Branch in the Kennedy House was ever considered, and if so, when ?
- (b) Regarding paragraph (iii) why and what would have been and would be the additional expenditure by moving the remaining portion of the Wireless Branch containing two junior officers, a few clerks and menials ?
- (c) Regarding paragraph (iv) is not the under-mentioned additional expenditure incurred annually for the accommodation and also due to the location of the Wireless Branch in a separate building ?

	Per annum.
	Approx. Rs.
1. One clerk (despatcher)	1,800
2. One clerk (typist)	1,800
3. Two peons (for carrying cases every now and then from Wireless Branch to other Branches of the Director General, Posts and Telegraphs' Offices)	500
4. One farash and one sweeper	500
5. Rent of building, etc.	5,500
Total	10,100

- (d) Regarding paragraph (v) why the rent of the rooms, etc., occupied by the Wireless Branch is charged for if the Central Telegraph Office building is the property of the Posts and Telegraphs Department at the disposal of the Director General ?

Mr. P. G. Rogers : (a) Yes. In 1923 when the Director General's Camp Office first moved into " Kennedy House ".

(b) The remaining portion of the Wireless Branch is considerably more than what has been suggested by the Honourable Member and the cost of moving it between Delhi and Simla would approximately amount to Rs. 2,100 per annum, excluding the cost of carriage of records, an expenditure which Government do not consider justified.

(c) I am unable to follow the Honourable Member's calculations and can only repeat my previous assurance that, so far as can be estimated there is no additional expenditure.

(d) The charge is a formal one, and is for the purpose of the allocation of expenditure of the various Heads of accounts under Telegraphs and Radio.

GRANT OF CONCESSIONS TO CERTAIN CLERKS IN THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS ON LOCATION OF THAT OFFICE IN DELHI.

252. ***Maulvi Muhammad Yakub :** Will Government be pleased to state :

(a) Whether all the clerks serving in the Director General, Posts and Telegraphs' Office at Calcutta were granted the " concessions " on the location of the Director General's Office in Delhi ?

(b) What of these clerks who were recruited in Simla ; if any, why the condition of recruitment did not operate in their case ;

(c) If such clerks were granted the " concessions " because of their transfer to the Calcutta office some time before the move of the office to Delhi why those clerks who were not so transferred from the moving office before the move, in the interest of service, but located in Delhi permanently when the exigencies of service demanded after the move, should not be accorded the same treatment and granted compensation ?

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

(b) A few clerks originally recruited in Simla and subsequently transferred to Calcutta became entitled to the concessions as they fulfilled the prescribed conditions.

(c) The Honourable Member's attention is invited to the reply given in this House to part (a) of Mr. Anwar-ul-Azim's starred question No. 482 on the 19th March, 1928.

GRANT OF CONCESSIONS TO CLERKS IN THE MOVING SECTION OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS DETAINED IN DELHI.

253. *Maulvi Muhammad Yakub : (a) Will Government be pleased to state how many of the clerks of the Office of Director General, Posts and Telegraphs who were not granted the "concessions" because of their having been recruited in the moving section of the Director General's Office were compulsorily detained in Delhi last March ?

(b) What amount of "compensation" to the clerks who have been so detained has been given for the loss of about 80 per cent. of their emoluments ? If no "compensation" has been granted, what are the reasons for it ?

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

(b) No compensation has been granted. In this connection the Honourable Member's attention is invited to the reply given in this House to part (b) of his starred question No. 135.

SCARCITY OF RESIDENTIAL ACCOMMODATION IN NEW DELHI FOR GOVERNMENT OFFICIALS.

254. *Maulvi Muhammad Yakub : (a) Is it a fact that a large number of Government officials is seriously suffering from a scarcity of residential accommodation in New Delhi ?

(b) If the reply to part (a) be in the affirmative, do Government propose to consider the question of building additional quarters without delay or of granting land either free or at normal price to those of the staff who want to build their own quarters ?

The Honourable Sir Bhupendra Nath Mitra : (a) Yes. There is a shortage of accommodation in New Delhi.

(b) The question of building additional quarters is receiving the attention of Government. It is not considered desirable to give free grants of land to members of the staff who wish to build their own quarters ; but facilities are given, by means of advances, for building and cost of land at normal rates, to those who wish to build for themselves.

ALLEGED PREFERENTIAL TREATMENT OF A LADY CLERK IN THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS.

255. *Maulvi Muhammad Yakub : Will Government be pleased to state :

(a) Whether a sufficient number of quarters was allotted in Delhi for the migratory portion of the Director General, Posts and Telegraphs' Office before the staff was ordered to move from Simla in October last ; if so, why was one lady typist (subsequently transferred to Wireless Section) permitted to remain in Simla pending allotment of quarters in her name ?

(b) If no arrangement for allotment of quarters to certain clerks could be made before they were ordered to move from Simla, why the affected clerks also were not given the same preference as was given to the lady typist ?

(c) If Government could not make arrangements for allotment of a sufficient number of quarters for the migratory portion of the Director General's Office, why the suggestion made in paragraph (vi) of starred question No. 226, answered on the 8th September, 1928, was not reconsidered with a view to give every possible effect to that suggestion ?

(d) Whether there are any special orders to give preferential treatment in cases of lady clerks *only* : and if so, whether Government will be pleased to lay on the table a copy of the orders ? and

(e) Whether it is a fact that one clerk who was previously transferred to the Wireless Section was retransferred to the Delhi Office in the arrangement of the subsequent change referred to in the second part of the question at part (a) above ; if so, why ?

Mr. P. G. Rogers : (a) The reply to the first part of the question is in the negative, and the second part does not arise.

(b) Because the services of the men could not have been utilised in Simla.

(c) As previously stated in my reply to the question referred to the arrangement suggested was not feasible.

(d) No.

(e) Yes, because it was considered that it would be easier for him to find accommodation in New Delhi than for the lady typist.

†256.

APPOINTMENT OF COLONEL STANWAY ON SPECIAL DUTY ON THE NORTH WESTERN RAILWAY.

257. ***Diwan Ohaman Lall :** (a) Will Government please state whether it is a fact that Colonel Stanway was placed on special duty on the North Western Railway ?

(b) What was the period for which he was placed on special duty ?

(c) What was the nature of the duty allotted to him ?

(d) Will Government please place on the table a list of the names selected by Colonel Stanway ?

(e) Will Government please state whether they apprehend civil commotion or war or the declaration of martial law ?

(f) Will Government state whether the activities of Colonel Stanway were connected with such apprehensions ?

†This question was withdrawn by the questioner.

Mr. G. E. F. Tottenham : (a) No, Sir. Colonel Stanway holds the military appointment of Commandant of the Nucleus Depôt of the Railway Reserve Regiment.

(b) The tenure of this appointment at present is two years.

(c) He is in command of the Nucleus Depôt and is in charge of the enrolment, payment, administration and records of the reservists.

(d) The enrolment of reservists has only recently commenced and I do not think that any useful purpose would be served by giving the names of those, if any, who have been enrolled.

(e) and (f). The answer is in the negative. The formation of a reserve with a view to the performance of special railway duties in time of war is part of the normal peace organisation. I am indebted to the Honourable Member for giving me the opportunity to make the point clear.

Diwan Chaman Lall : Will the Honourable Member tell us what were the instructions or terms of reference issued to Colonel Stanway for the inquiry he conducted ?

Mr. G. E. F. Tottenham : There was no inquiry, Sir. Colonel Stanway was simply appointed to command this Railway Reserve Regiment. That is all.

ALLEGED DIFFERENCE IN TREATMENT OF EUROPEAN AND INDIAN UNDER-TRIAL PRISONERS.

8. ***Diwan Chaman Lall :** (a) Will Government please state in detail the differentiation between the treatment of European and Indian under-trial prisoners ?

(b) Is it a fact that the Lahore hunger-strikers have protested against their treatment ?

(c) Will Government please state the reasons why the same treatment was not meted out to the Lahore hunger-strikers as is meted out to European under-trial prisoners irrespective of the nature of the offence ?

The Honourable Sir James Orerar : (a) The rules relating to under-trial and other prisoners vary in detail from province to province. In regard to the differentiation now in question, it may be said, broadly, that the principle adopted is to establish conditions, which will maintain the health of all prisoners and will, at the same time, not impose undue expenditure on the State. In pursuance of this principle regard is paid to the previous mode of living of prisoners in the rules, relating to diet, bedding and, in some provinces, to accommodation. I may, however, state that all under-trial prisoners are permitted to supplement their food at their own expense and to have their own bedding. In the Punjab, as in most other provinces, the special rules framed for European prisoners do not apply exclusively to Europeans. These rules provide for their application to Indians whose standard of living is similar to that of Europeans.

The above statement relates to under-trial prisoners and also to those convicted persons who have not been classified as special class prisoners. In regard to special class prisoners, no distinction is recognised in the rules between European and other prisoners.

(b) The Government of India have received no protest from the Lahore hunger-strikers. In regard to their treatment, I would refer the Honourable Member to the communiqués of the Punjab Government, dated the 6th of August and the 9th of August, 1929.

(c) My reply to part (a) of the question provides the explanation desired by the Honourable Member. Presumably the under-trial prisoners in question are not eligible under the rules for the treatment prescribed for European prisoners. I may, however, again refer the Honourable Member to the Punjab Government communiqué, dated the 9th of August, 1929, from which it will be seen that the cost of the diet allowed to these prisoners is in excess of the cost of the diet allowed to Europeans.

Diwan Chaman Lall : May I ask the Honourable Member as to why the particular rules which are applicable to European under-trial prisoners were not made applicable to the hunger-strikers in Lahore ?

The Honourable Sir James Orerar : I have explained the principle under which the Punjab rules applicable to European prisoners are equally applicable in certain circumstances to Indian prisoners. The matter is within the discretion of the Superintendent of the jail, who no doubt came to the conclusion that the particular prisoners in question were not eligible for these particular rules.

Diwan Chaman Lall : May I ask whether the Government will see their way to granting the request of the under-trial prisoners at Lahore that they should be treated on a par with European under-trial prisoners ?

The Honourable Sir James Orerar : The demands made by the under-trial prisoners at Lahore are considerably more extensive than those suggested by the Honourable gentleman. I am afraid I cannot give him an assurance in the terms which he suggests.

Diwan Chaman Lall : What I am asking the Honourable Member to do is this : is he prepared to recommend that the same rules should apply to Indian under-trial prisoners as apply to European under-trial prisoners ?

The Honourable Sir James Orerar : That is a matter which in this instance is within the discretion of the local authorities, with which I should not be prepared to interfere.

Pandit Madan Mohan Malaviya : May I know how that is a matter for the Local Government to consider ? The Penal Code governs these matters and the Criminal Procedure Code, and the rules are made by the Government of India to apply to all prisons throughout the country. How is that a matter for the Local Government ?

The Honourable Sir James Orerar : I think the Honourable and learned Member is under some misapprehension. These matters are not regulated by the Criminal Procedure Code, but by rules made by the Local Governments under the Prisons Act.

Pandit Madan Mohan Malaviya : That is why I mentioned the rules also—under rules approved by the Government of India : is there a single rule made which was not approved by the Government of India ?

The Honourable Sir James Crerar : Local Governments within the limits prescribed by the Act which I have mentioned are empowered to make rules.

Pandit Madan Mohan Malaviya : Do the Local Governments submit those rules for the Government of India's approval or not ?

The Honourable Sir James Crerar : Ordinarily, they do not.

Pandit Madan Mohan Malaviya : Will the Government of India ask the Local Governments to submit those rules and consider them before allowing them to be put into force ?

The Honourable Sir James Crerar : I would invite the Honourable Member's attention to the communiqué recently issued by the Government of India in which an inquiry into the rules relating to under-trial prisoners and special class prisoners has been undertaken.

Pandit Madan Mohan Malaviya : But cannot Government, pending that inquiry, accede to the request that has been made by my friend, that the same rules should apply to the Indian under-trial prisoners as apply to the European under-trial prisoners ?

The Honourable Sir James Crerar : The whole question of the rules relating to under-trial prisoners will come under examination.

Diwan Chaman Lall : May I ask whether the Honourable the Home Member is aware of the urgency of settling this problem and may I ask him whether the Government will not be prepared to issue instructions for modifying the rule and not wait until the report of the inquiry is out ?

The Honourable Sir James Crerar : I should not be prepared to issue specific instructions in a particular case in a matter which is within the discretion of the Local Government.

Diwan Chaman Lall : May I ask the Honourable Member whether he is not aware of the fact that the Government of India have been taking a very keen interest in this matter, in spite of the fact that this is a Local Government matter and, therefore, would it not be better for the Government of India to issue instructions of the kind that we are asking for in order to put an end to the trouble that has arisen at Lahore ?

The Honourable Sir James Crerar : I am not prepared to agree with the Honourable Member that that would be a proper course for me to take.

Diwan Chaman Lall : May I ask the Honourable the Home Member whether he puts it on the ground that it is not a proper course for him to take or that the Government of India are unable to interfere with the discretion of the Local Government ?

The Honourable Sir James Crerar : My reason is that I am aware that the Local Government and the Governor of the Punjab are taking a very close interest in this matter.

Pandit Madan Mohan Malaviya : May I know whether the Government of India is not aware that what is taking place at Lahore is attracting the attention of the whole country and that the whole country feels interested that the matter should be settled early in a fair and humane way ? If so, should the Government of India wait until an inquiry has been made generally into this question or should they not, in view of what is taking place at Lahore, accept the proposal that the same rules should apply to Indian prisoners as apply to European prisoners until the matter should have been further considered ?

The Honourable Sir James Orerar : I am quite aware that the incident to which the Honourable Member refers has attracted and is attracting a great deal of attention in this country, and it was partly at any rate in recognition of that fact that the Government of India instituted the inquiry to which I have referred.

Pandit Madan Mohan Malaviya : The country wishes to know whether the protest which these under-trial prisoners are making has had its effect upon the Government and whether they are prepared to extend the same humane treatment to Indian prisoners as is extended to European prisoners ?

The Honourable Sir James Orerar : I must remind the Honourable Member that the particular demands made by the under-trial prisoners to whom he refers are of a much more extensive character and the reasons which have been stated in the Government communiqué—at least one of them is with which the Government of India cannot see their way to comply.

Pandit Madan Mohan Malaviya : Will the Honourable Member tell us what are the demands which he considers to be excessive and which he is not prepared to concede ?

The Honourable Sir James Orerar : I would refer more particularly to the demand made that persons who are convicted of offences committed for an alleged political motive should receive special treatment on that ground alone, without any regard to the character of their offence.

Pandit Madan Mohan Malaviya : The offence of which they are being tried or any other offence ?

The Honourable Sir James Orerar : No, Sir ; the demands to which I have referred relate not only to the under-trial prisoners but to persons already convicted.

Pandit Madan Mohan Malaviya : But are the persons already convicted before the court as under-trial prisoners or are they there to undergo their sentences before the court ? I take it that the persons who have been convicted have had their sentence passed upon them ; and if while they are undergoing those sentences, the Government choose or think it right in the public interests to prosecute them on another charge, should they not be treated in regard to that charge as under-trial prisoners as any other person accused of that charge ?

The Honourable Sir James Orerar : My point is this : the demand made by the under-trial prisoners—and I fully recognise the distinction between

under-trial prisoners and convicted prisoners—refers not only to the under-trial prisoner but to convicted prisoners also.

Pandit Madan Mohan Malaviya : What I submit is that, whether a man has been convicted of one or more offences, he is before the court as an under-trial prisoner in regard to the charges which have to be investigated by that court, and so long as he is before that court as an under-trial prisoner he ought to be treated on the same footing as any other under-trial prisoner. I am sure the Government does not wish to add to the punishment which a court has inflicted upon a person convicted of an offence, that of depriving him of the right of an under-trial prisoner to have reasonable freedom and facilities of making a proper defence.

The Honourable Sir James Crerar : As regards the treatment of these under-trial prisoners, I would invite the Honourable gentleman's attention to the Punjab communiqué, to which I have referred, and he will find that having regard to the probable strain of a possibly protracted trial, the Punjab Government have sanctioned in their case exceptionally favourable conditions.

Pandit Madan Mohan Malaviya : But the Honourable Member is aware that that has not satisfied those persons : they ask for equal treatment of Indian and European prisoners.

SHORT NOTICE QUESTION AND ANSWER.

ACTION OF THE GOVERNMENT OF THE UNION OF SOUTH AFRICA IN CONNECTION WITH THE VISIT OF MAULANAS MAHOMED ALI AND SHAUKAT ALI TO THAT COUNTRY.

Mr. Fazal Ibrahim Rahimtulla : (a) Has the attention of Government been drawn to the statement of Maulana Mahomed Ali, which has appeared in the *Times of India* of the 31st August, 1929 ? If so, will Government be pleased to state what action they have taken in the matter ?

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(b) Are Government aware of the strong feeling in the minds of the Muslims against the order of the Union Government ?

(c) Will Government be pleased to lay on the table the correspondence that has passed between the Union Government and the Government of India ?

(d) Do Government propose to adopt similar measures on behalf of the Government of India against the nationals of South Africa ?

Sir Frank Noyce : (a) Government have seen the statement in question and have already taken some action as mentioned in the said statement.

(b) Yes.

(c) and (d). No. It will serve no useful purpose. The matter is still under correspondence, and it is best to rely on friendly representations to the Government of the Union of South Africa.

Mr. Fasal Ibrahim Rahimtulla : Will Government be pleased to state how long these negotiations are likely to last ?

Sir Frank Noyce : I cannot say.

Mr. Fasal Ibrahim Rahimtulla : Are Government aware of the inconvenience that is caused to Maulana Shaukat Ali and his party who have already reached South Africa ?

Sir Frank Noyce : Government are in full possession of the facts.

Maulvi Mohammad Shafee Daoodi : Are Government aware that Maulana Mahomed Ali left his home with his wife and daughter and has been stranded at Bombay for the last ten days ?

Sir Frank Noyce : Yes, Sir.

Pandit Hirday Nath Kunzru : May I ask when Government began their negotiations with the Union Government ? Was it after the protests that appeared in the newspapers or after they received information from the Union Government ?

Sir Frank Noyce : Government began their negotiations with the Government of South Africa as soon as they received intimation of the circumstances from Maulana Mahomed Ali.

PETITIONS RELATING TO THE HINDU CHILD MARRIAGE BILL.

Secretary of the Assembly : Sir, under Standing Order 78, I have to report that five petitions as per statement laid on the table have been received relating to the Bill to regulate marriages of children amongst the Hindus, which was introduced in the Legislative Assembly on the 1st February, 1927, by Rai Sahib Harbilas Sarda.

Petitions relating to the Bill to regulate marriages of children amongst the Hindus which was introduced in the Legislative Assembly on the 1st February, 1927.

Number of signatories.	District or Town.	Province.
155	Burdwan	Bengal.
455	.. .. .	Bengal.
51	Jessore	Bengal.
2,019	.. .. .	Bengal.
108	.. .. .	Bengal.

ELECTION OF THE STANDING COMMITTEE ON ROADS.

Mr. President : The House will now proceed to elect six members to the Standing Committee on Roads for the financial year 1929-30. There are nine 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. One of them, Mr. Muhammad Yamin Khan, has since withdrawn his candidature.

(The ballot was then taken.)

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

The Honourable Sir James Crerar (Home Member) : Mr. President, I move for leave to introduce a Bill further to amend the Code of Criminal Procedure, 1898, for a certain purpose,—for the insertion of a new section 540-B. I do not wish at this stage to add anything material to the Statement of Objects and Reasons, but I wish to say this, that Government had hoped that the circumstances which had arisen might have so changed as to have rendered it possible for them to avoid introducing this measure. In that hope they were most unfortunately disappointed and they have felt it their duty, as the matter is one of definite urgency, to lay this Bill before the House at the earliest possible moment. Sir, I move.

Pandit Nilakantha Das (Orissa Division : Non-Muhammadan) : On a point of order, Sir. I am very sorry that I have got to raise this point of order at this stage, for we have been having for so long a convention that at the stage of introduction of a Bill there should be no speech or objection from the other side. (*Some Honourable Members* : "Louder please".) This Bill refers, as I understand, primarily to the case of Lahore prisoners who are now on hunger strike and I am afraid in the course of the debate we cannot but enter into the conduct of those prisoners there. Therefore, under Standing Order 29 (2) (i) it would be an abuse of the procedure of the House. We could have raised this point of order at a further stage, but I am afraid under the new Rule, after once the House is seized of the Bill we may not raise this point of order. Therefore we have to raise this point of order at this stage and I submit that this motion should be ruled out of order.

Mr. President : I have considered this point already and I have come to the conclusion that the matter which the Honourable Member proposes to raise by this Bill could be debated without going into the merits of the pending case.

The question is :

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

The motion was adopted.

The Honourable Sir James Crerar : Sir, I introduce the Bill.

THE BENGAL PILOT SERVICE (CENTRALISATION OF ADMINISTRATION) BILL.

The Honourable Sir George Rainy (Member for Commerce and Railways) : Sir, I move that the Bill further to amend the Calcutta Pilots Act, 1859, and the Indian Ports Act, 1908, in order to vest the control of the Bengal Pilot Service in the Governor General in Council, be taken into consideration.

This is quite a short Bill, Mr. President, with a definite and simple object, and its scope therefore is very restricted. As the House, I think, is aware since the date of the Reforms in 1921 a good many matters in connection with mercantile marine administration have been Central subjects, but the Government of India did not at once assume direct control of the actual administration. I might mention two matters, namely, lighthouses

and the administration of the Merchant Shipping Act, with regard to which legislation had been passed during the last two years transferring the statutory powers formerly vested in Local Governments to the Governor General in Council. This Bill may be described as another step forward in the same direction. Since 1921 the pay of the Bengal Pilot Service has been a Central charge but all the statutory powers have remained with the Local Government and the Government of India have had to exercise their control by issuing instructions and directions when necessary, to the Local Government. It is obvious, I think, that if the Bengal Pilot Service is to be a Central subject, sooner or later the Government of India must assume direct control and take steps to have the statutory powers transferred to themselves. That could not with advantage be done till the Commerce Department of the Government of India had its own expert staff who could advise it in regard to these matters. That condition is now satisfied and it is for that reason that I have brought forward this Bill. Its provisions are very simple indeed. The Calcutta Pilots Act provides for the trial of pilots, and if the Government of India is to administer the service, I think it is clear that the statutory powers ought to rest with it and no longer with the Government of Bengal, for unless these statutory powers were transferred to us, it would be very difficult for us to administer the Act. In the second place, as the cost of the pilots falls on Central Revenues, and as our intention is that the service should be self-supporting, that is, that the amount collected from pilotage fees should be sufficient to defray the whole cost of the service, it is obvious, I think, that the fixing of pilotage fees must rest with the Government of India. That is in fact what the Bill proposes to do. It proposes to give the Government of India power to fix the rate of pilotage fees in the port of Calcutta and it transfers to the Government of India all the statutory powers under the Bengal Pilots Act.

The only other provision is a very small one due to the fact that the Bengal Pilots Act was passed as long ago as 1859. We have taken the opportunity to substitute for the words, "Magistrate of Police", which are now obsolete, the words, "Presidency Magistrate". I think, Sir, what I have said will make it clear to the House what the object of this Bill is. I do not think it is necessary that I should amplify on the subject further. Sir, I move.

Mr. President : The question is :

"That the Bill further to amend the Calcutta Pilots Act, 1859, and the Indian Ports Act, 1908, in order to vest the control of the Bengal Pilot Service in the Governor General in Council be taken into consideration."

The motion was adopted.

Clauses 2, 3 and 4, were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir George Rainy : Sir, I move that the Bill be passed.

The motion was adopted.

THE INDIAN BOILERS (AMENDMENT) BILL.

The Honourable Sir Bhupendra Nath Mitra (Member for Industries and Labour) : Sir, I beg to move that the Bill further to amend the Indian Boilers Act, 1923, for certain purposes, be taken into consideration. Sir, this is a very simple Bill. It seeks to amend the Indian Boilers Act of 1923

[Sir Bhupendra Nath Mitra.]

for certain purposes specified in it. These purposes are two, and they are set forth in clauses 2 and 3 of the Bill. The reasons for proposing these amendments are explained in the Statement of Objects and Reasons and I do not propose to take up the time of the House by paraphrasing that Statement. Sir, I move.

Mr. President : The question is :

“ That the Bill further to amend the Indian Boilers Act, 1923, for certain purposes, be taken into consideration.”

The motion was adopted.

Clauses 2 and 3, were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Bhupendra Nath Mitra : Sir, I move that the Bill be passed.

The motion was adopted.

THE NEGOTIABLE INSTRUMENTS (SECOND AMENDMENT) BILL.

The Honourable Sir George Schuster (Finance Member) : Sir, I beg to move that the Bill further to amend the Negotiable Instruments Act, 1881, for certain purpose (Insertion of new section 85-A) be circulated for the purpose of eliciting opinions thereon. This is a small Bill, containing only two clauses, and very simple in its purpose. Its object is so to amend the Negotiable Instruments Act as to make it clear that the Act affords protection to bankers in India against forged or unauthorised endorsements of demand drafts drawn by one branch of a bank upon another branch of the same bank. The question first came up for consideration by the Government of India in 1926, at the instance of the Bombay Chamber of Commerce, which pointed out that it was doubtful whether, under the Indian law, the protection which is afforded to bankers under the English law would apply. At that time the Government of India thought that legislation was unnecessary. The question was however again raised at the meeting of the Associated Chambers of Commerce at the end of 1926, and they pressed that the Government of India should take action in the form of legislation, because the exact effect of the Indian law was in doubt and they preferred that prevention of difficulty should be undertaken rather than that we should wait till the difficulty arose and then trust to the decision of the Court. Since then there has been one *obiter dictum* of the Calcutta High Court, which would appear to indicate that that Court would have taken the view that the protection which we seek to give to bankers in these cases would apply ; but that was only an *obiter dictum* and I understand that a very large circle of commercial interests feel that, as this matter is in doubt, the doubt ought to be cleared up. On the other side, the Government are led to believe that some doubts as to legislation are felt in certain other commercial circles, and in these circumstances the Government are of opinion that, in the first instance, the Bill should be circulated in order to obtain full opinions upon it. Sir, I move.

The motion was adopted.

THE INDIAN INCOME-TAX (PROVIDENT FUNDS RELIEF) BILL.

The Honourable Sir George Schuster (Finance Member) : Sir, I move that the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes (*Provident Funds Relief*), be referred to a Select Committee consisting of Mr. G. L. Winterbotham, Mr. J. Y. Philip, Mr. H. P. Mody, Mr. Ghanshyam Das Birla, Mr. N. C. Kelkar, Mr. S. C. Mitra, Mr. B. P. Naidu, Mr. Sarabhai N. Haji, Mr. Vidya Sagar Pandya, Mr. Fazal Ibrahim Rahimtulla, Mr. A. H. Ghuznavi and the Mover, with instructions to report on the 16th September, 1929, or as soon as possible thereafter, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be six.

Sir, the object of this Bill is to extend relief in respect of income-tax to private Provident Funds. At present certain Government Funds and allied Funds receive measures of relief, and it has long been felt that similar measures ought to be accorded to private Provident Funds. This question has had a long history and has been under discussion continuously for the last three years. The Government of India were from the beginning sympathetic to the demand, inasmuch as anything that we can do to help Provident Funds and subscribers to Provident Funds is an encouragement of thrift. But the Government felt certain difficulties in the matter and had to consult Provincial Governments upon it. The consultation and the decision about further action took a considerable time, and it was pressed very strongly upon me when I attended the Annual Meeting of the Associated Chambers of Commerce in Calcutta last December. I then gave a definite undertaking which has since been repeated in this House. The substance of the undertaking was that the Government, wishing to encourage thrift, were prepared to treat those who subscribed to Provident Funds exactly in the same manner as those who paid premiums annually on a life insurance policy ; that is to say, as a man who pays an insurance premium is entitled to abatement of tax up to one-sixth of his income on the amount that he pays, so we intend to give exactly the same benefit to subscribers to Provident Funds and to enact that, to the extent of one-sixth of the income the employee's subscription combined with the employer's subscription to the Fund shall be exempt from taxation. I wish to make the nature of the undertaking quite clear because, since the matter has been under discussion, I have been pressed to extend further privileges to private Provident Funds and to put them entirely on the same basis as Government Provident Funds. That was never undertaken by me and there are certain privileges which apply to Government Funds which cannot quite appropriately be applied to private Provident Funds. On the other hand, in substance, what we are now proposing goes very considerably further than the original undertaking, because not only will the subscriptions paid annually into the Fund be exempt from income-tax, but the income on the investments held by the Fund will also be exempt from tax, and in this way private Provident Funds will get very substantial relief.

The question of introducing safeguards against possibilities of abuse is a very complicated one and as a result the preparation of the Bill has been a matter of considerable difficulty. I wish to make it quite clear that in this Bill we regard the position as though we were starting an experiment and we therefore have not attempted to legislate for every possible contingency. We have thought it better to provide for a fairly wide discretion to be exercised by the Governor General in Council for making rules on certain points. I believe that that will in practice be found to be the best

[Sir George Schuster.]

method, and that, by virtue of the rule-making power, we shall establish regulations which will fit in with the needs of the Funds and will also give the Government the protection which is necessary in the public interest. The most interesting part of the discussion on this Bill will have to take place in Select Committee, as the Bill is of a highly technical nature. I therefore do not think I need say anything more about it now, and I beg to move the motion standing in my name.

Mr. G. L. Winterbotham (Associated Chambers of Commerce : Nominated Non-Official) : Sir, in support of this motion I should like, if I may, in very few words to put before the House the position of those whom this Bill is designed to benefit. In the first place, Sir, as we have heard from the Honourable the Finance Member, though the Income-tax Act provides for exemption of income-tax for those Provident Funds to which the Provident Funds Act, 1925, applies, this latter Act does not apply to private Provident Funds, that is to say, Funds maintained by Firms and Companies and other bodies for the benefit of their employees. It only applies to Government Funds and quasi-Government Funds. Those of us, Sir, who have been engaged in the struggle with Government have felt for a long time that this is an inequality in the law, which amounts to a grave injustice to a large number of deserving people ; that is to say, the members of these private Provident Funds ; and we have held, and I hope that this Bill will show that we have held successfully, that it is a position for which there is no conceivable justification. Secondly, Sir, under the law as it stands, the incidence of taxation on the savings of individual members of private Provident Funds is not equitable. An individual's savings in a Fund are composed of his own contributions, his employer's contributions and the accumulated interest thereon. A man's own contributions pay tax at the time when they are paid into the Fund. The rest, that is to say, the employer's contribution and the interest is not taxable until it is paid out on the member leaving the Fund either on his leaving the firm on retirement or on death. It is then treated as part of his income in the year in which he leaves the Fund and taxed accordingly. Honourable Members will readily understand that if to a man's ordinary income for one year is added a lump sum representing his employer's accumulated contributions over the whole period of his service together with the accumulated interest on both his own and his employer's contribution for that whole period, he will almost certainly have to pay tax at a higher rate than is applicable to his yearly income proper and he may even in certain circumstances be called upon to pay a considerable sum in super-tax. These two grounds, Sir, have formed the basis of our claim for exemption from income-tax for private Provident Funds—firstly, the inequality of Government servants being treated differently from others in this matter, and secondly, the unfairness of the rate of tax on the accumulated balance paid out to individuals. The Bill, Sir, before the House, represents the climax of a long struggle. We should, as the Honourable the Finance Member made it plain, have preferred that the matter had been dealt with by making the Provident Funds Act, 1925, applicable to private Provident Funds, but we unfortunately have to accept the position that there are insuperable objections to this course.

I should like, Sir, if I may, say how very grateful we are to the Honourable the Finance Member for the way in which he has promptly tackled this long-standing grievance of the commercial community. Ever

since he came on the scene towards the end of last year, he recognised the justice of our claim, and I should like to say that we readily acknowledge that this Bill represents a generous interpretation of the undertaking which he gave at the meeting of the Associated Chambers of Commerce at the end of last year in Calcutta. I do not think that there will be any difference of opinion about the principle of this Bill, which is the encouragement of thrift. I will only add, in case my speaking has raised any doubts in the minds of Honourable Members, that I am not myself a member of any private Provident Fund, and that the position of employers in respect of relief from income-tax on private Provident Funds will be exactly the same under the provisions of the new Bill as it is at present.

Mr. President : The question is :

“ That the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes (*Provident Funds Relief*), be referred to a Select Committee consisting of Mr. G. L. Winterbotham, Mr. J. Y. Philip, Mr. H. P. Mody, Mr. Ghanshyam Das Birla, Mr. N. C. Kelkar, Mr. S. C. Mitra, Mr. B. P. Naidu, Mr. Sarabhai N. Haji, Mr. Vidya Sagar Pandya, Mr. Fazal Ibrahim Rahimtulla, Mr. A. H. Ghuznavi and the Mover, with instructions to report on the 16th September, 1929, or as soon as possible thereafter, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be six.”

The motion was adopted.

THE INDIAN INCOME-TAX (AMENDMENT) BILL.

The Honourable Sir George Schuster (Finance Member) : Sir, I beg to move that the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes (*Amendment of sections 14, 25-A, 31, etc.*), be referred to a Select Committee consisting of Sir Darcy Lindsay, Mr. H. P. Mody, Sir Purshotamdas Thakurdas, Mr. Ghanshyam Das Birla, Mr. Lalchand Navlrai, Mr. D. F. Mulla, Mr. Jamnadas M. Mehta, Mr. Gaya Prasad Singh, Mr. Vidya Sagar Pandya, Mr. Fazal Ibrahim Rahimtulla, Mr. A. H. Ghuznavi and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be six.

Sir, this Bill brings together a number of minor amendments, mostly of administration and procedure, which have been found necessary in the course of working the Income-tax Act. The Bill is, it is hoped, non-controversial. It contains 12 groups of amendments, of which eight relate entirely to machinery and procedure, two to penalties for false or fabricated evidence in income-tax proceedings, and two to very minor points of substance affecting the burden of taxation. These points of substance relate to the grant of relief in all cases of hardship, neither of which is important from the point of view of revenue, though, from the point of view of individuals concerned, the hardship operates at times quite harshly. Sir, I do not think it is necessary for me to say any more on this Bill, which raises no questions of principle but confines itself to details of administration.

The motion was adopted.

THE INDIAN CENSUS BILL.

The Honourable Sir James Crerar (Home Member) : Mr. President, I beg to move :

“ That the Bill to provide for certain matters in connection with the taking of the Census, be taken into consideration ”.

[Sir James Crerar.]

I move for consideration because this Bill is of a purely formal, and, I think, of an entirely non-contentious nature. Similar measures have been enacted for a considerable number of decades past for the purpose of providing for the taking of the decennial census. It is not necessary for me to remind the House that the taking of the census, which should be done in a comprehensive and accurate way, is a matter of great importance. The results of the census are indispensable for nearly every branch of administration and for nearly every form of public work. It is, of course, a general review of the population and other matters of great importance bearing on the national life of the country which is undertaken in every civilised country of the world. The principal object of this Bill is to confer upon the large number of non-official agents, who are necessarily employed in so great an undertaking, the position and protection of public servants, and also to secure that the necessary information shall be provided by those who are responsible for doing so. It is obvious that non-official agencies must be employed to a very large extent in a work of this kind, and it is very much in the public interest that this should be done because, if assistance is given by persons who have local knowledge of the facts, much less inconvenience will be caused to the public, and the work of the census can be carried out with greater accuracy and despatch. I think, Sir, that there is not likely to be any opposition in any part of the House, for the principle is so plain and so advantageous to the country, and I do not propose, therefore, to add to these few remarks in making this motion.

Mr. N. C. Kelkar (Bombay Central Division : Non-Muhammadan Rural) : Sir, I would just like to make one or two observations at this stage of the Bill with regard to a particular provision of the Census Act, which is contained in clause 6. Mine is a matter of general comment and not a specific amendment or correction of a particular section. Therefore, I raise that question in a general manner when this motion is being considered, and I hope the Honourable the Home Member will give me permission to do so. It is on a point of information that I am speaking. My point is that clause 6, for instance, refers to the instructions to be issued by Provincial Governments to Census Officers and to be published in the Local Government Gazette. Now, the question is whether these instructions, as issued in the Government Gazette, will be final, or whether they will be subject to revision in view of public opinion expressed on those instructions. It will be admitted at once that Census reports have a great importance, especially in these days both from the point of view of religion and political administration. I need not, of course, go into details. My point is that it is only fair to the public to let them know what the instructions are that are to be issued to Census Officers, so that if any corrections have got to be suggested with regard to these instructions appertaining to the enumeration, etc., there should be time enough for the representatives of the people in the country to put themselves in communication with Provincial Census Superintendents and to get what they want in this matter. I confess that I do not know exactly what the procedure is and what sort of instructions are issued regarding the taking of census. And referring to the Census Report for the last two times, I find that the actual instructions issued to the Census Officers are not given in the Census Report itself. Therefore, I do not know what sort of instructions are actually issued. But, I presume that instructions issued to the Census Officers govern a

number of points and one of the points is enumeration by religion or caste, etc. There are a number of headings under which enumeration has got to be made, enumeration by sex, enumeration by age, enumeration by religion, etc. What I am concerned with is enumeration by religion or caste, and in this I do not allege that the Census Officers have in themselves any communal bias. But it is quite possible that the provincial Census Superintendents may have got some *a priori* ideas of their own as to classification of particular people under particular headings. To give an idea as to what I mean I will refer this House to the Census Report of 1911, in which I found that an attempt was made by the provincial Census Superintendents to put forward their own *a priori* ideas about the incoherence of the Hindu religion, and they seem to have prescribed a sort of catechism or questionnaire to decide for themselves whether particular sects could be included among Hindus or not. Though I am speaking at present for the Hindus, the difficulty may equally apply to Muhammadans and to people of other religions also. But I am here particularly concerned to speak from the point of view of Hindu religion. Here is a list of questions which I found were actually issued to the Census Officers in the process of enumeration. The central idea seems to be that the Hindu community is not coherent and in order to bear out that impression, that is that the Hindu community is not coherent, a list of specific questions were given. I will just give those questions, so that an idea may be obtained as to what detailed instructions were given to census enumerators. Supposing they were followed, what misleading results would they possibly lead to? The census enumerators were asked to prepare a list of Hindus of all the minor castes which *qua* caste, (1) deny the supremacy of the Brahmans, (2) do not receive a *mantra* from the Brahmans, (3) or recognise a Hindu *guru*, (4) deny the authority of the Vedas, (5) do not worship the great Hindu gods, (6) are not served by good Brahmans as family priests, (7) have no family priests at all, (8) are denied access to the interior of the Hindu temple, (9) cause pollution by touch or presence within a certain distance, (10) bury their dead, (11) eat beef, and (12) show no reverence for the cow, etc. One really fails to understand the significance or the inner meaning of such an inquisition and I also fail to understand how an ordinary person will be able to answer questions like these, and whether there is really any time for the census enumerator to go into these details and put the man under the proper sub-head. Now, there are things on the other side also. In the same Census Report, I find, that while doubt has been thrown upon the Hinduism of certain Hindus who worship Muhammadan saints, no such doubt was raised about certain Christians, like the Uyomaya Christians in Travancore, who offer ceremonial benedictions after the manner of the Brahmans. Why should doubt be raised in the case of Hindus because they worship certain Muhammadan saints, and why should no such doubt be raised in the case of Christians who follow Brahminical observances? One principle seems to be applied in the one case, while another principle seems to be applied in the other case. That makes out, I will not say, conscious—an unconscious communal bias on the part of certain Census Officers.

In another report, I find this. It is of course a question whether animists could rightly be called Hindus by religion. In this connection, the Census Officer says that it is very difficult to say at what stage the man ceases to be an animist and becomes a Hindu. The point seems to me to be this: here is an inclination to treat animists as far as possible as

[Mr. N. C. Kelkar.]

"animists" and not as "Hindus". A line seems to be stressed or emphasised after which an animist becomes a Hindu and before which he does not become a Hindu. These are all very elaborate matters. My submission is that when a man calls himself a Hindu, he must be put down on the record as a Hindu. In that Report the Census Officer says that it does not by any means follow that a man gives up his inherent animistic beliefs because he seeks the help of Brahmans or makes offerings at a Hindu shrine. That is the reason given for not regarding animists as Hindus. But I have given two illustrations on two different sides and I will put the concrete result like this. In one case the census return would refuse to show a man as a Hindu because, as pointed above, he was not served by Brahman priests on the one hand and in the other case, the census return would refuse to return an animist as a Hindu, though he said that he sought the help of Brahman priests or was making offerings at Hindu shrines. This will make it possible for certain Census Officers or Census Superintendents to set about their business with certain *a priori* notions of their own as to classifications, etc., and if they go into elaborate details like these, I do not know what it will lead to. It will lead to this, that enumeration will be wrong, unfair and unjust to certain classes. I believe that generally in a census return a man should be entered by the description he gives of himself. If he says, "I am a Hindu", he is a Hindu, if he says, "I am a Muhammadan", he is a Muhammadan. That is all. But, I do not quite see the purpose of issuing such detailed instructions in order to note down sub-caste, sub-sub-caste and so on. Also, in regard to beliefs, I do not think it is right that the Census Officers should institute a sort of inquisition into the peoples' religious beliefs and ask them what they do or do not believe in and so on. Perhaps these questions would be useful from a theoretical or a philosophical point of view, but they would not serve any useful purpose from our present point of view, and I really do not know whether there is time enough in the census operations for all this sort of questions. I think that these sorts of questions and other things really go to vitiate the ultimate calculations of enumeration. My point therefore is this, that if any instructions are issued by Provincial Superintendents, the public or its representatives should have a fair opportunity to go into those instructions, and make proper representations to the Provincial Government before those instructions are finally adopted and gazetted in the Local Government Gazette. I do say that this procedure should necessarily be followed. My point is that the Provincial Governments ought not to make any inquiries behind the back of the public in these matters. Before issuing any instructions of the nature referred to by me to the provincial Census Superintendents, they should be published in the first instance and the instructions likely to be issued by the Provincial Superintendents should also be tentatively published in the Government Gazette or otherwise, or they should be supplied to the Press or the journalists in order that discussion might be raised on those instructions. That is absolutely necessary, for if these instructions are finally prepared and published by the Provincial Governments in their gazettes without consulting the public, they become final. There is no relief to be obtained by the people who feel that they are injured by those instructions. Therefore my point is that that matter is one which is governed by clause 6. Of course I do not want to raise that point because there is no amendment or anything sought on that section. but I

1 P.M.

want to point out that particular section at this stage and ask the Honourable the Home Member whether he realises the particular point that I have brought to his notice and what attitude he is going to take with regard to that and whether he is going to issue any instructions to the Provincial Governments under this Act in view of the observations which I have made.

Mr. Muhammad Yamin Khan (United Provinces : Nominated Non-Official) : Sir, we are all Indians ; whether we are Mussalmans or whether we are Hindus would not matter, if it had been confined to taking the census only, i.e., counting the population. My friend, Mr. Kelkar objects to these details in the Census Report, but I think these details are very essential. They are very useful and helpful to us in deciding many matters. I think the word "Hindus" is such that it even implies the Sikhs in many matters, and it will not be fair to those communities and those sections who, though they call themselves Hindus as distinguished from Mussalmans or Christians, are still not real Hindus in the sense in which my friend wants to take them. These details are very necessary for determining many matters which arise from time to time. I at least do not agree with the suggestion which my friend Mr. Kelkar has put forward before the Honourable the Home Member, and I think he will not be doing any service by this suggestion to the country and to many communities who want to know their numerical strength and the basis on which they are calculated. For instance, take the sweepers. My friend wanted to include them among the Hindus.

Several Honourable Members : " They are Hindus ".

Mr. Muhammad Yamin Khan : If anybody who is residing in India can be called a Hindu, as distinguished from one who is not residing in India, then I think the Mussalmans also can be counted as Hindus if that is going to be the literal translation of Indians because the people of Arabia and of America and other places do not call us Indians but they call us "Hindi". Even the Mussalmans, when they go to Arabia, are not called Mussalmans but "Hindi". This is a term which is applied to all people residing in India, whether Mussalmans, Hindus or Christians. This word "Hindu" was given by the Mussalmans to all the people who were residents of India, whether they were idolators or worshippers of other objects or believed in the Arya Samaj or any other religion. Therefore if you want to know the details about the different religious beliefs of the people you have to make this distinction in the Census Report, and that is always helpful in coming to certain conclusions which we require from time to time. I was surprised at the speech which was made by my friend Mr. Kelkar. I do not know with what motive he made it, unless it was for some political purpose, for which he wishes that the Report, which can be comprehensive, may not be comprehensive and may serve a certain ulterior motive for which he is working.

Mr. E. L. Price (Bombay : European) : Sir, with regard to these instructions I do not want to express any opinion on what Mr. Kelkar was saying, but in the last census operations there came to my notice two cases where these instructions were used to harass domestic relations. In one case I understand a man was living with a woman and there was a dispute in his community whether she was his lawful wife or not. In the other case it was a Hindu who had married a widow, and I believe his castemen arrayed themselves against him. In both these cases I understand the households

[Mr. E. L. Price.]

were severely harassed by the questions of the Census Officers, which were evidently prompted by their social opponents. It seems to me, Sir, that if a man and woman say that they are man and wife, it ought not to be permissible for them to be harassed on the question of the legality of their union by Census Officers.

Mr. M. R. Jayakar (Bombay City : Non-Muhammadan Urban) : Sir, my Honourable friend Mr. Yamin Khan does not appear to have understood Mr. Kelkar at all. The point that Mr. Kelkar put before the House has nothing communal about it. The point, as briefly put, is this, that it is not the business of a Census Officer to go into the religion of the citizen and catechise him as to details in order to find out whether his own description about himself as a Hindu, Muhammadan or Christian is just and proper. The option ought to be left entirely to the citizen whether he will call himself a Hindu, Muhammadan, or Christian, and it is not the business of the Census Officer to catechise him about further details with a view to find out, for some ulterior purpose, political, religious or otherwise, whether his description of himself as Hindu, Muhammadan or Christian is correct. That is the point made by Mr. Kelkar. In order to illustrate it, I will take the case of a Christian. Is it permissible to the Census Officer, if the citizen calls himself a Christian, to further interrogate him with a view to find out whether his description of himself as a Christian is well-founded? Would it be permissible, *e.g.*, to the Census Officer to ask him whether he believes in the Ten Commandments and if so which of them.....

Mr. E. L. Price : Whether he was baptized, that is the Christian test.

Mr. M. R. Jayakar : Or whether he was baptized, or whether he believes in the Transfiguration of Christ or in certain parts of the Bible as apocryphal, or whether he believes in the Chapter on Genesis. If the Census Officers were to be allowed to put these questions, he would become a court of appeal for the purpose of deciding, what is entirely a matter for the citizen to decide. Take the case of a Muhammadan, and I will ask Mr. Yamin Khan to note the interrogatory. Can a Muhammadan, after he has described himself as one, be further asked whether he believes that Muhammad was the Prophet of God or had greater or less divinity. Supposing a Muhammadan were asked to state whether he believed in a particular religious theory, or whether he subscribed to a particular Muhammadan tenet, how would it look? Is it permissible to the Census Officer to go into all these questions? I can assure the House that, if we once give the right to the Census Officer under clause 6, to put questions which are entirely outside the proper scope of a census, we will only introduce friction and irritation. The result of such a power will be that it will be entirely in the hands of the Census Officer to weaken, at his will, the position of certain religions or strengthen that of others. I therefore submit that such a power is entirely outside the purpose of that clause or even of Census operations. I do hope that the day will soon come in India when denominational headings in religion will be entirely dropped from the census register, as it is done in some European countries, where, nobody bothers about the religion of the citizen; but until that day comes, I think the Census Officer ought not to have the liberty of stirring up religious difficulties under the

guise of census operations. His business is to leave it entirely to the citizen to say under what religious category he will rank himself; he may call himself a Hindu or Moslem; it is entirely for him to decide the matter; the Officer should not go further and interrogate him with a view to distinguish whether he is an orthodox Hindu or Moslem or whether he is 14-annas orthodox or 12-annas orthodox. Let us read some of the questions which Mr. Kelkar read out, which Hindus had to answer. "Do you deny the supremacy of the Brahmin?" "Do you receive *mantras* from Brahmins?" "Do you deny the authority of the Vedas?" "Do you not worship Hindu gods?" "Are you not served by good Brahmins as family priests?" "Have you any family priests?" What is the reason for putting these questions, which are entirely a matter of details of personal religious belief and of internal regulation for a particular community? What can be their meaning, except that the motive was to point out that, although some people might call themselves Hindus, they were only 8-annas Hindus or 6-annas Hindus or 3-annas Hindus. That is an inquiry which, I do submit, and I am sure the House will agree with me, is entirely outside the proper scope and purpose of a census; if I may say so quite frankly, the Officer who puts these questions is using the census for the purpose of political or religious propaganda. I do submit that that ought not to be allowed to be done in the name of a census, and I do hope that the Honourable the Home Member will admit the good sense of the proposal made by Mr. Kelkar and see that these mischievous interrogatories which are entirely outside the purpose of a census are not allowed.

Nawab Sir Sahibzada Abdul Qayyum (North-West Frontier Province : Nominated Non-official) : Sir, I do not intend making a long speech on this motion. All that I want to say is that unfortunately our division of society is based upon religion, faith and creed. These divisions do exist in the country and we cannot get rid of them in our present-day life of India. Even the words "majority community" and "minority community" are based on these lines. The majority community which is composed of numerous ~~faces~~ ~~sects~~ has nothing very common about it as far as social habits and customs go, except perhaps that it chiefly consists of people who believe in religions and faiths that have sprung up from India; and the minority communities mostly belong to the religions that have come into India from outside, such as Judaism, Christianity, Islam and Zoroastrianism. That being the case, it is most essential that we should describe these various faiths, which exist in the country, as elaborately as possible, if not for the sake of religious beliefs, at least for the political questions that always arise in this House and elsewhere.....

Mr. Gaya Prasad Singh : That is it : the cat is out of the bag.

Nawab Sir Sahibzada Abdul Qayyum : If we had some other divisions of society in this country, such as exist in other countries of Europe and America, viz., Capitalism, Labour, Socialism, Bolshevism, Communism, Conservatism, Liberalism (An Honourable Member : "Communalism") and, yes, Communalism, we would have been quite all right; but all these "isms" do not exist to any great extent in this country, and the division of society mainly rests on our faiths, beliefs and religions.

[Nawab Sir Sahibzada Abdul Qaiyum.]

Even the other day a friend of mine, although I do not think his community is more than one per cent. in the whole of India, wanted to know how many of his Sikh brethren were taken in a certain Department of Government service. Unless they know how many Sikhs there are in the different parts of India, Government will not be able to give a satisfactory reply to such questions. Similarly, we the Mussalmans do not understand why we alone should be separated from the rest of India by being termed "Muhammadan constituency", and calling the rest of the people "Hindus". I can say that there are more differences of faiths and creeds among the various sections of the Hindus than there is a difference of religion and belief between a Muslim and a Hindu; and if with all those differences of faith and belief they still call themselves Hindus, it must be for the sake of political gains and objects, and we are consequently losers to a great extent by this isolation. I shall explain this in a moment. For instance, even the depressed classes and untouchables come under the category of Hindus, while I think that the depressed classes, and especially the untouchables, are open to all the various religious communities to be reclaimed. The Muslim religion, as I believe it, is more accessible to these classes and can take them more readily in its lap than any orthodox Hindu community or section. I believe that in the south of India the majority of the population is Hindu, and still, if Government were not able to know the percentage of the Brahmin and non-Brahmin population in the Madras Presidency, I do not know how they would have been able to answer many of the questions that are raised here every now and then. In short I think the more elaborate the description of the various sections that exist in this country that is given by the Census Officers in their Report, the better it will be for all intents and purposes. At least it will do no harm. I cannot follow the argument of my friend, Mr. Jayakar, who asked, "Why should the Census Officer ask a man whether he believes in the Ten Commandments of Moses, etc., etc.?" I think that was stretching the point too much!

Mr. M. B. Jayakar : Can the Honourable Member deny that to ask a Hindu whether he believes in the Vedas is like asking a Christian whether he believes in the Ten Commandments or not?

Nawab Sir Sahibzada Abdul Qaiyum : I was just going to explain the point according to my own lights. I mean that perhaps it will not be necessary to sub-divide the existing religious sects in the country by putting too many questions of that sort to a citizen of the country; but whatever sections or sub-sections do exist, whether among the Muslims, such as Ahmadis, Shias, Sunnis, Sufis, Wahabis or Hanafis or among the Hindus, who have certainly many more sections among themselves than the Mussalmans, I say that the citizens may be asked to tell the Census Officer to which particular existing section they belong. These questions will serve us in many ways: at least it will do us no harm at all, since these differences are there and for this purpose I think there is scarcely anything which is unnecessary in the present system of the census taking in the country.

Dr. B. S. Moonje (Nagpur Division : Non-Muhammadan) : Sir, I entirely associate myself with what my friends, Mr. Kelkar and Mr.

Jayakar, have said. From the point of view of scientific curiosity, if all these details have been put down, I have no objection. But as my friend, Sir Abdul Qaiyum considers that there is also a political importance to be attached to it, when the question of who should call himself a Hindu or a Muslim comes up, here therefore the importance of the instructions to be given to Census Officers comes in. I therefore want to know if these instructions that are to be issued under this Bill will be permanent instructions, or will be amenable to modification and change according to representations that might be made by the several communities in India. I have known of cases during my travels, particularly in Southern India, in which a Christian girl is married in a Hindu house and she is accepted in the House as a Hindu. In the same way, a Hindu girl is married in a Christian house, and if those people choose to call themselves Christians, they are entitled to do so. Therefore, if the discretion is left to the Census Officers to describe as to who is a Hindu and who is a Christian, difficulties will arise and there is a likelihood of some injustice being done to the parties concerned. I know personally that there are some Hindus who have some respect for and worship the Aga Khan, and who call themselves Aga Khani Hindus. If therefore a Census Officer were to classify such Hindus according to his own belief or according to his own predilections, he might classify them as Mussalmans, simply because they worship the Aga Khan, though those people themselves might say that they are Hindus.....

Mr. Muhammad Yamin Khan : No man can be called a Mussalman who worships the Aga Khan. Only those who worship Allah can be called Mussalmans.

Dr. B. S. Moonje : That is perhaps the definition of my friend Mr. Yamin Khan, because I know of certain persons who worship the Aga Khan and yet call themselves non-Mussalmans. Therefore, the importance of the instructions to be issued under this Bill should be very carefully considered, and we should like to know from the Honourable the Home Member whether these instructions are permanent and fixed, or whether they will be liable to be changed according to the representations of certain communities. It will therefore be seen how very vitally important it is for the Central Government to issue fundamental instructions of general applicability as to who should be called a Hindu and who a Moslem and so on.

Mr. Amar Nath Dutt : (Burdwan Division : Non-Muhammadian Rural) : Sir, I had no mind to take part in this debate, but when my friend Mr. Yamin Khan observed that Mr. Kelkar's objection was due to some political motive, I thought that he wanted to fit the cap to others which exactly fits him. Sir, I do not know whether the Honourable the Home Member will again be annoyed with me if I again point out to him that these instructions have been issued with a deliberate political motive. They are intended merely to lessen the number of Hindus, and the cat came out of the bag when my friend Nawab Sir Abdul Qaiyum said that those instructions were necessary in order to ascertain the percentage of each community in the services.....

Nawab Sir Sahibzada Abdul Qaiyum : It did not come by chance. I meant it.

Mr. Amar Nath Dutt : I can well understand the reason why an intelligent Government like the present one (Laughter)—I won't use the word "intelligent" if some of my friends object to it. (*An Honourable Member*: "It is your own word".) Sir, I have been fighting for the last six years to change the description of Hindus as non-Mubarramadans, but the Government will not agree to it. I have been sending notices of Resolutions on this subject; I have also been putting questions several times, and the Government will not agree to the change. Why could they not agree to the change if there was no political motive behind? The fact is, that if they divide the country in census matters, they will have achieved their object. But there is another motive why they do not agree to the change, and that is to lessen the number of Hindus, to divide the Hindus by the Marriage Bill, as I have already stated, and Government also wants to divide the depressed classes and the untouchable classes. Sir, I for one have had ample experience of village life in Bengal, at least of West Bengal, and I can say that there are no such things as depressed classes or untouchables (Applause) in my part of the country. I know that these people are allowed to enter the temples; they partake of the same festivities, and they call themselves Hindus. They might have been non-Aryans and accepted Hindu culture and Hindu religion as their ideal, but they are entitled to describe themselves as Hindus. Now, Sir, I reiterate and re-assert that this classification is being made with a view to divide the people of this country, it has been done with a deliberate object, with a deliberate political motive behind, though Honourable Members on the opposite Benches might deny this charge. I may also say, Sir, that it is their guilty conscience that makes them cowards and they always protest and say that there is no motive behind their proposals. If they had been honest and sincere, they would not have taken part in Bills like the Child Marriage Bill; they would have remained absolutely neutral; if they had been honest and sincere, they would not have divided and sub-divided the country in this manner. So, Sir, I submit that, if they are honest and sincere,—at least they want to appear to be honest before us,—let them do away with all these distinctions.

Nawab Sir Sahibzada Abdul Qaiyum : They are the divisions made by Manu.

Mr. Amar Nath Dutt : Please do not speak of Manu.

Nawab Sir Sahibzada Abdul Qaiyum : How can anybody do away with those distinctions made by your great Law Giver, Manu?

Mr. Amar Nath Dutt : Do not speak of Manu.

The Honourable Sir James Crerar : Mr. President, it appears to me that I was unduly sanguine in my hopeful anticipation that the measure before the House would prove entirely non-controversial. But indeed I think, in point of fact, in spite of what has fallen from Honourable Members on both sides of the House, that I may still say that, so far as the great bulk of this House is concerned, and so far as the particular points which have been raised are concerned, and with which I shall presently deal, the Bill still remains non-controversial. No one, I think, denies the necessity of the census; no one denies that for all the purposes of a modern civilized nation, whether for administration, whether for

public work or indeed for almost any purpose contributing to the advancement of the life of a nation, the accurate figures provided by the census are the indispensable material of the statesman and the public man.

Well, Sir, I hope I shall not be called upon to plead to the charge that there is any political motive behind this Bill. Government are merely discharging, in bringing this Bill before the Assembly, their manifest duty, and I may perhaps refer to the fact that the particular provision which has been specifically mentioned has appeared over and over again during the course of several decades.

Now, Sir, I shall proceed to the point taken by my Honourable and learned friend Mr. Kelkar and also by my Honourable and learned friend Mr. Jayakar, and by one or two speakers who followed them. What Mr. Kelkar said, I think, both in its purport and in its intention, is perfectly reasonable. The question of the classification and the denomination of castes and sub-castes has been in recent times very carefully examined, and I am quite convinced that in the census to be carried out in 1931, it will require very careful and very intelligent handling in the light particularly of the observations which from time to time have been made in this House. Mr. Kelkar asked me in particular what the intention was with regard to the instructions issued under clause 6 of the Bill, and I hope I shall be able to give him a clear and satisfactory reply.

I think it a very reasonable proposition that when the Local Government publish the instructions contemplated by that clause, they should also, before those instructions come into operation, give a reasonable time for representations to be made with regard to them. It is also reasonable that when representations are made to the Local Government they should be carefully considered, and if a good case for any modifications in those instructions is made out, that the Local Government should make such modifications as are so required; and I am perfectly prepared to communicate to Local Governments the views which have been expressed in this House on that point. I hope that will satisfy Mr. Kelkar and other Honourable Members who have spoken on the Bill. For the rest, I think I may with some assurance still hold the view that the Bill is not controversial and that, subject to what has been said on this particular point, it will be unanimously or almost unanimously approved of by the House.

Mr. President : The question is :

“ That the Bill to provide for certain matters in connection with the taking of the Census, be taken into consideration.”

The motion was adopted.

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. President : The House will now proceed to the consideration of the Bill to provide for certain matters in connection with the taking of the Census clause by clause.

Clauses 2 to 15 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir James Orerar : I move that the Bill be passed.

The motion was adopted.

THE INDIAN RAILWAYS (AMENDMENT) BILL.

The Honourable Sir George Rainy (Member for Commerce and Railways) : Sir, I move that the Bill further to amend the Indian Railways Act, 1890, for certain purposes, be referred to a Select Committee consisting of Mr. N. C. Kelkar, Mr. K. C. Neogy, Nawab Sir Sahibzada Abdul Qaiyum, Mr. Muhammad Yamin Khan, Mr. R. S. Sarma, Mr. Jamnadas M. Mehta, Mr. S. C. Mitra, Pandit Dwarka Prasad Misra, Mr. Ram Narayan Singh, Sir Darcy Lindsay, Lieutenant-Colonel H. A. J. Gidney, Maulvi Muhammad Yakub, Mr. Abdul Matin Chaudhury and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be six.

This Bill, Mr. President, is a very short one and has only one operative clause empowering the Governor General in Council to make rules to regulate the hours of work, and periods of rest of railway servants, or any class of railway servants, and it is explained in the Statement of Objects and Reasons that the necessity for this legislation arises from the obligations which the Government of India have undertaken in the Washington and Geneva Conventions. Under the Washington Convention we undertook that the principle of the 60 hours' week should be adopted in such branches of railway work as might be specified for the purpose by competent authority. Similarly, under the Geneva Convention, the weekly day of rest must be extended to the same classes of workers. Now, Mr. President, although the Bill is a very short one the subject with which it deals is obviously of great importance. Since the Government of India ratified the Conventions, a good deal has been done towards introducing the principle of the 60 hours' week and the weekly day of rest, but the progress has not been as rapid as I should have liked to have seen it, and it has become clear that for the purposes of specifying the branches of railway work to which these two things are to apply, there is no competent authority in India excepting the Legislature itself. What the Bill proposes to do is to make the Governor General in Council the competent authority, but I quite recognise that, in a matter as important as this, the more usual practice would have been that certain substantive provisions should have found a place in the law itself. That is what has been done in the Indian Factories Act, but we have found it a difficult and complicated business to work out exactly what provisions should be made applicable to Indian railway servants, and we have not been able, so far, to put forward definite provisions which could be incorporated in an Act of the Legislature. I feel that it would not be fair to this House to ask them, short though the Bill is, to proceed with this legislation in a hurry. I was anxious to bring the Bill before the House this Session in order to make it clear that it is the intention of the Government of India to legislate on this subject but on the other hand I think it is reasonable that, before the

House is asked to pass the Bill, and before the Select Committee is asked to formulate its recommendations, the House and the Committee should have before them the rules that we propose to make if this Bill passes into law. They exist already in draft form, but they have still to be discussed with the Agents of railways, and I think it will also be necessary to discuss them with the representatives of labour in one form or another. Therefore, if the House accepts the motion which I am moving, I do not anticipate that the Select Committee can usefully sit until some date in January. By that time I hope that the rules will be in a form in which we can place them before the Select Committee. The general principle of the Bill, Mr. President, may be said to be this. We are asking the Legislature, if it accepts this motion, to affirm that the time has come when, by legislation, a competent authority should be set up to specify the branches of railway work to which the weekly day of rest and the principle of the 60 hours' week should apply. We do not ask the House to do more than this. There will be room for a great deal of discussion in the Select Committee and in the House at a later stage as to whether the present form of the Bill is satisfactory, or whether amendments are not required. I do not think I need dwell further on this subject, Mr. President, because we can discuss the whole question much more fully and much more usefully when the Bill comes back from the Select Committee. For that reason, I will content myself with what I have said and with moving my motion.

Diwan Chaman Lall (West Punjab : Non-Muhammadan) : May I suggest that the name of Mr. K. C. Roy be added as a member of this Committee ?

Mr. President : The question is that the name of Mr. K. C. Roy be added to the list of members of this Committee.

The motion was adopted.

(Mr. K. C. Neogy rose in his place.)

Mr. President : Does the Honourable Member wish to speak ?

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Yes, Sir, I have a formal amendment to move also, that the name of my Honourable friend, Rai Sahib Harbilas Sarda be substituted for my name in the list of members of this Committee. Sir, I wish to say just a few words in connection with this Bill. Although I am alive to the importance of the measure, I would say that this House would have been fully justified in refusing to help Government to place this measure on the Statute-book without even looking at the merits of this measure, because, Sir, it will be within the recollection of Honourable Members that the question of the wholesale revision of the Railways Act has been under consideration for some years. It was 8 years ago that the Acworth Committee made the recommendation that the Indian Railways Act required wholesale revision, and they made the further recommendation that, as soon as the Railway Rates Advisory Committee were appointed, one of the first duties that should be assigned to the Chairman of that body ought to be the revision of this Act. Eight years have elapsed and I do not think that any tangible action has been taken by Government in this direction beyond making a reference, very lately, to the Chairman of the Railway Rates Advisory Committee on the subject. I would like to know from the Honourable Member in charge what time he is likely

[Mr. K. C. Neogy.]

to take in bringing forward a comprehensive amending measure. I do hope that he will realise that it is not just and fair on his part to ask this House to amend the Railways Act in dribblets when we are very keen on having the whole Act revised.

Maulvi Abdul Matin Chaudhury (Assam : Muhammadan) : Sir, I want to offer a few brief remarks on this Bill. While supporting this motion for reference to a Select Committee, I cannot help expressing my regret that, in giving effect in the Washington Convention, the Government should have taken shelter under the exceptional clause of the Convention, " a ten-hour day ", instead of accepting the general principle of an eight-hour day. Honourable Members are aware that the Washington Conference, while limiting the hours of work in Western countries to a forty-eight hour week, in industrial undertakings made an exception in the case of Japan and India, prescribing a sixty-hour week for these countries. It was urged in the Conference that in highly-developed countries like those of the West eight hours a day was as productive as nine or ten hours a day in other countries of primitive methods and with a trying climate, and it was said that if Japan and India were brought into competition with the European countries on the same level of hours of work, that would destroy the mass of Indian industries, and to attempt to do so would be to court failure. Mr. Masumito, the Japanese Workers' Delegate, and Mr. Joshi lodged a protest against this discrimination, but whatever justification there may or may not be for a ten-hour day in industries which are faced with the competition of the world, I submit that there is no justification for a ten-hour day in an undertaking like the railways, which is a State monopoly, and which has not to face competition from anywhere else. Moreover the railways are paying very fair dividends, and it is quite meet and proper that Government should introduce measures to humanize the conditions of labour in India, and to bring them into line with the other progressive countries of the West. This is a matter in which the Government can take the lead, and my sole regret is that they have not been as generous to labour as they could afford to have been in this matter. While dealing with the Bill, Sir, we are very much handicapped for want of adequate materials. We have been asked to sign something like a blank cheque,—to empower the Governor General in Council to frame rules without knowing what the rules are going to be, what particular classes of railway employees are going to be included, and what is more important, what particular classes of persons are going to be exempted from the operation of this rule. I am glad however that the Honourable the Commerce Member has given an assurance that the draft rules will be placed before the Select Committee, and I hope that when the Bill comes out of the Select Committee the substantive portion of the rules will be incorporated in the Act itself.

Diwan Chaman Lall : Sir, I rise to support the protest made by Mr. Abdul Matin Chaudhury. I think he is perfectly right in stating that it is time that the Honourable Member in charge of this Bill should look upon the question of the hours of work on railways not from the point of view of the Washington Convention but from the point of view of modern conditions prevailing throughout the world. I would like to correct one impression that my Honourable friend might have carried away in regard to a statement made by Mr. Matin Chaudhury as to the action taken by Mr. Joshi at Washington. No doubt his reply to Mr.

Chaudhury would be that Mr. Joshi at Washington agreed to this exception as regards India,—the exception that a ten-hour day is essential for countries like India. Mr. Joshi was working under a very grave difficulty and he agreed to it at that stage as a matter of compromise and for no other reason. Since 1919, ten years have elapsed, and the Honourable Member ought to be aware of what has been going on in other parts of the world in regard to working hours on the railways, and there is no justification whatsoever for him to come before this House and demand a ten-hour working day for railway workers in India. The only ground on which that exception was passed at Washington was that conditions of work in countries like India and other Eastern countries are different to the conditions of work prevailing in European and American countries. Now I would like to ask the Honourable Member whether it is not necessary, because of the difference in conditions of work here, that Indian workers should work less hours than European workers in European countries, considering the climatic conditions and other conditions which ought to be taken into consideration. Therefore I hope that, when the matter comes up before the Select Committee, the Honourable Members who are on the Select Committee will look upon this question, not from the point of view of the Washington Convention, to which lip service is now at this late stage given by Government, but look upon it from the modern point of view and realise that the Indian worker ought to be brought on a par with the workers in other parts of the world, particularly in Europe, as far as the hours of work are concerned.

I also agree with my friend, Mr. Matin Chaudhury, that it is wrong in principle to leave the regulation of the hours of work to be decided upon by rules to be made by the Governor General in Council. It may be a convenient method for the Government, but I hope that some sort of statutory obligation will be placed upon the Railway Administrations in India to make it absolutely certain that Indian workers will not work more than eight or even six hours a day. My own preference is for six hours. I see my Honourable friend, Mr. Rau, laughing at this suggestion, but he must be aware of the agitation that is going on in Great Britain in regard to six hours; at any rate he ought to be aware, being the Financial Commissioner of Railways, of the serious agitation that is going on in regard to this question of the hours of work, and he ought also to be aware of the fact that, in Great Britain, I believe the hours have been fixed at eight. I would like to demand from the Government some explanation as to the justification which they can urge in favour of a ten-hour working day for railways in India.

I hope, Sir, when this matter is discussed in Select Committee, all these points will be taken into consideration, and that the Honourable Member will look upon this question, not from the point of view of the Washington Convention, but from the point of view of modern conditions in Europe as well as in America.

Mr. M. S. Aney (Berar Representative) : Sir, in supporting the motion before the House, I wish to place before the House some information about this measure. Last time when the Standing Finance Committee for Railways met, a proposal was placed before the Committee to sanction certain expenditure for the purpose of carrying out the recommendations of the Washington Convention with regard to railway labour. At that time a memorandum was also placed before us which

[Mr. M. S. Aney.]

indicated that the Government of India intended shortly to introduce a Bill like this.

Then, at that time the discussion centred upon this point and there was a formal recommendation made by the Standing Finance Committee that, before the Honourable the Commerce Member could introduce any Bill in the Assembly, the draft Bill should be placed before the Central Advisory Council of the Railways for its consideration and discussion along with such draft rules as the Governor General in Council proposed to make under the enabling clause of the Bill. So that, the Government of India should have the advice of the Central Advisory Council as regards the precise nature of the rules to be made, or as to which of those rules should be incorporated in the Act itself. That was a suggestion discussed in the Committee. There was some little difference of opinion among certain members no doubt. However, there was no meeting of the Central Advisory Council after that. I am glad to find, at any rate, that the Honourable Mover of this Bill had given us a definite promise that the draft proposals in this respect will be placed before the Select Committee for their consideration.

I found there was some outline of the proposals which the Government of India had in their mind with regard to the rules to be framed under the Act, and one of them indicated that the Agent shall be given very wide powers as regards the exemptions of certain classes of labour from the operation of this Act and the concessions thereunder. I would particularly draw the attention of the members of the Select Committee to this fact with a view that they should very carefully scrutinise the draft rules to be placed before them for their consideration, particularly because I feel that a general power of exemption granted to the Agent is likely to be very detrimental to the best interests of the labour, whose interests this Bill is intended to promote. That was the only thing which I wanted to bring to the notice of those who are likely to serve on the Select Committee. With these few words I support the motion moved with the amendment that is moved by my friend Mr. K. C. Neogy.

Mr. V. V. Jogiah (Ganjam *cum* Vizagapatam : Non-Muhammadar Rural) : Sir, I wish to say a few words before the Bill goes to the Select Committee. The object of this Bill is to create a competent authority which would specify the branches of railway work and frame rules. The Governor General in Council is made under the Bill the competent authority. The question is whether in a country like India, where the employers with respect to railways are the Government, the Governor General in Council will be the competent authority to make rules. I will therefore suggest to the Select Committee to consider whether the competent authority cannot be the representatives both of the Government, which is the employer, and the representatives of the employees such as those selected by one of the properly constituted railway bodies, such as the All-India Railway Federation. Unless a committee consisting of representatives of both the Government and those of the employers is appointed as "the competent authority", I fear the rules framed for purposes of fixing the hours of work or allotting days for weekly rest, cannot be satisfactory. It is unjust that "the competent authority" should be one-sided. I therefore suggest that "that competent

authority" should be made to include representatives of both the Government, private Railway Companies and the Employees. This is the only suggestion I would like to make to the Select Committee.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadian) : Sir, I would like to add only a word or two to the observations which have been just made by my Honourable friend Mr. K. C. Neogy. The Acworth Committee, so far back as 1921, recommended that the Indian Railways Act required revision in many directions. Then, again on 7th February, 1927, the Government of India, in reply to a question on the floor of this House, admitted that the Act required revision. I should like to read out to the House a portion of the reply which was given on that occasion. Government said :

"Government are aware that in some directions the Act requires revision. Various suggestions as to the revision received from time to time from Local Governments and Administrations are under consideration, and it is also proposed to take the advice of the Rates Advisory Committee on the subject."

And in the course of that reply it was stated further on that steps would be taken to bring the matter to the notice of the Rates Advisory Committee.

The other day I put a question on the subject and I learnt that it was only in May or June last that the matter had been referred to the Rates Advisory Committee. That reply was given in 1927, and in the year of grace 1929, the matter was referred to the Rates Advisory Committee. There are many anomalies in the existing Railways Act, and it is high time that there should be a fairly comprehensive revision of the provisions of the Act. So far as this Bill goes, I have nothing to say against it ; but it would have been better, if, in revising the Railways Act, a comprehensive Bill dealing with some of the other provisions of the Act were brought before this House and considered.

That is all I have got to say.

The Honourable Sir George Rainy : My Honourable friend, Mr. Neogy, Mr. President, said he thought the House should be thoroughly justified in refusing to consider this Bill because it was not a Bill for the complete revision of the Indian Railways Act. Now, if no other parties were concerned except the House and the Government, I do not say that my Honourable friend's suggestion would have been altogether unreasonable, but in view of the fact that the people most intimately concerned in this Bill are the railway workers in India, I am afraid my Honourable friend would have hardly been justified in taking up that attitude. He asked me to say when it is likely that the Government will be able to place before the House a comprehensive measure for the revision of the Indian Railways Act. I am afraid that I cannot give him any definite indication as yet. I am sorry that it took us such a long time to refer the matter to the President of the Railway Rates Advisory Committee, but I do not know that the delay was altogether regrettable, because during the intervening years the President of the Committee has been gaining additional experience of a very important branch of railway work, and I have no doubt that the experience thus acquired will give greater value to any recommendations that he may place before us. On this question of a comprehensive revision I would like to say this to my Honourable friend Mr. Gaya Prasad Singh, that if my official experience has taught me anything, it is this, that if you

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want to get an inconvenient question out of the way, you have only to say we will take it up when there is a general revision of the Act. (Laughter.) Therefore if you want in any particular branch to get something done, you do not wait for a general revision of the Act, but take it up straight away as I have done in this case.

I do not propose to attempt to answer the suggestion made by my Honourable friends Mr. Abdul Matin Chaudhury and Mr. Chaman Lal to the effect that the Washington Convention, so far as India is concerned, did not go far enough. It will be within the competence of any member of the Select Committee on this Bill to raise questions of that sort. But, obviously, it would require considerable space of time to discuss these important matters fully and, as I have said, I think the House will be in a far better position to discuss these matters when the Bill comes back to it from the Select Committee.

My Honourable friend Mr. Aney drew attention to a recommendation of the Standing Finance Committee for Railways that the rules, before they were made, should be laid before the Central Advisory Council. Now, I think that is a very reasonable suggestion and I have nothing to say against it. But in this case, as I am hoping to place the first rules before the Select Committee, there might be a difficulty supposing both the bodies considered the rules and came to different conclusions. On this occasion it may be best that I should place them before the Select Committee, and if I do so, it may not be convenient to place them also before the Central Advisory Council. But I see no objection, with regard to any future amendments of the rules once they are made, to making it ordinary practice to refer them to the Central Advisory Council.

I think there is only one other point to which I need refer. That was the suggestion made by Mr. Jogiah, that the Governor in Council was not a suitable or a competent authority for the purposes proposed. I should like to draw his attention to the fact that, so far as the State-managed railways are concerned, the Governor in Council is already a competent authority, and that it is only in respect of the Company-managed railways that there is, except the Legislature, no competent authority at present to do what is needed. In any case, the question is one which can be dealt with in Select Committee.

Mr. President : The Honourable Member said nothing about the amendment of Mr. Neogy.

The Honourable Sir George Rainy : I have no objection to the amendment, Sir.

Mr. President : Did the Honourable Member obtain the consent of Mr. Neogy to serve on the Committee ?

The Honourable Sir George Rainy : I obtained his consent through the usual channel, that is, through the officials of his party. I understand that there has been some change about that in the party.

Mr. President : Will the Honourable Member, Mr. Neogy, explain why he, having given his consent once, now wants to drop out ?

Mr. K. C. Neogy : Sir, on the question which the Select Committee will have to consider my Honourable friend Mr. Sardar would be a much better authority than myself. That is the reason why I seek to substitute his name.

Mr. President : The Honourable Member knows the practice of this House, that no names are included in the list unless members themselves agree, and after once agreeing, it is not right for any of them to decline.

Mr. K. C. Neogy : May I mention that this has been done as a result of the revision of the understanding that was arrived at in the party with regard to the Members who were to represent our party on the Select Committee.

Mr. President : It is very difficult for me to understand it.

The question is :

“ That the name of Rai Sahib Harbilas Sardar be substituted for the name of Mr. K. C. Neogy ”.

The motion was adopted.

Mr. President : The question is :

“ That the Bill further to amend the Indian Railways Act, 1890, for certain purposes, be referred to a Select Committee consisting of Mr. N. C. Kelkar, Rai Sahib Harbilas Sardar, Nawab Sir Sahibzada Abdul Qaiyum, Mr. Muhammad Yamin Khan, Mr. R. S. Sarma, Mr. Jamnadas M. Mehta, Mr. S. C. Mitra, Pundit Dwarka Prasad Misra, Mr. Ram Narayan Singh, Sir Darcy Lindsay, Lieutenant-Colonel H. A. J. Gidney, Maulvi Muhammad Yakub, Mr. Abdul Matin Chaudhury, Mr. K. C. Roy, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be six.”

The motion was adopted.

THE INDIAN SOFT COKE CESS BILL.

The Honourable Sir George Rainy (Member for Commerce and Railways) : Sir, I beg to move :

“ That the Bill to provide for the levy of a cess on soft coke despatched by rail from collieries in the provinces of Bengal and Bihar and Orissa, be taken into consideration ”.

Sir, this Bill is modelled upon two Acts of the Legislature, namely the Tea Cess Act and the Lac Cess Act. But it also embodies another departure. These two Acts provide for the levy of a cess on the export of tea and the export of lac from British India, the proceeds being devoted to propaganda, scientific research and certain other purposes. In the case of this Bill, what we propose is the levy of a cess on the despatches of soft coke from the collieries, the cess to be expended mainly on propaganda. The novelty therefore is that the money raised is to be devoted not to the promotion, principally, of the export trade, but of the internal trade of the country in soft coke. I think it must be fully two years ago that the members of the Committee of the Indian Mining Federation brought the matter to my notice. They pointed out that, owing to the state of the coal market, there was a very small demand for any class of coal except first class coal, and that the proprietors of the smaller collieries who were interested chiefly in the coal that was not first class coal, found great difficulty in disposing of their output. They pointed out that, in so far as soft coke could be substituted for cow

[Sir George Rainy.]

ding, for instance, it would be a really valuable thing in the interests of India as a whole, because the land would not be deprived of the manure which it so badly needed. They asked that the matter might be considered. The original proposals they put before the Government were somewhat larger in their scope, for they included the levy of a very small cess, not only upon soft coke, but on all kinds of coal despatched from the collieries. That was considered, but it was found that we could not proceed with it because the support received from the coal trade generally was not sufficient. In respect of these cesses it has been the practice of the Government of India to legislate only when they have the great bulk of trade behind them. This Bill is, therefore, limited to the collection of a cess on the despatches of soft coke from the collieries and the regulation of the expenditure of the money thus raised. The detailed provisions of the Bill do not, I think, require a great deal of explanation. They are modelled in the main on the provisions of the two Acts to which I have already referred, namely, the Tea Cess Act, and the Lac Cess Act. Under clause 4 of the Bill a committee will be formed, which will be presided over by the Chief Mining Engineer of the Railway Board, and will contain representatives of the Government of Bengal and of the Government of Bihar and Orissa, one member elected by the Indian Mining Association, and seven members elected by the Indian Mining Federation. The reason why the majority of the committee will be elected by the Indian Mining Federation is this. Practically all the proprietors of the collieries which produce soft coke are members of the Indian Mining Federation, and as the money which will be raised is to all intents and purposes their money, it is natural that the control of the expenditure should remain in their hands. The usual provisions are made for the periodical audit of the accounts of the committee, and there are one or two other clauses, mainly machinery clauses, for administrative purposes, on which I do not think I need dwell. It is right to inform this House that we have consulted the Indian Mining Federation about the Bill and that they very strongly support it. It is a case, therefore, in which the Government of India are acting on the recommendation and with the full support of the trade concerned. I do not think I need say very much more on this Bill. It is in one respect a novelty and I have no doubt myself that it is a salutary novelty. When any trade comes to the Government of India and shows that it is prepared to combine, that it is prepared to submit to the levy of a cess of this kind to be spent on propaganda for popularising its products, it is quite reasonable that Government and the Legislature should accord their support. I hope, Mr. President, that, if this Bill becomes law, it will be found beneficial to the branch of the coal trade which produces soft coke, and that it may have a material influence in bringing about increased prosperity to that section of the trade. Sir, I move.

The motion was adopted.

Clauses 2 to 9 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir George Rainy : Sir, I move that the Bill be passed.

The motion was adopted.

THE CANTONMENTS (HOUSE-ACCOMMODATION AMENDMENT) BILL.

Mr. G. B. F. Tottenham (Army Secretary) : Sir, the motion standing in my name on the paper is that the Bill further to amend the Cantonments (House-Accommodation) Act, 1923, for certain purposes, be taken into consideration. It came to my notice this morning, Sir, that certain Honourable Members of this House desire that the Bill should be referred to a Select Committee. Government have no objection to that course ; in fact I should have myself moved for reference to a Select Committee if I had known earlier that there was any desire on the part of Honourable Members that that course should be adopted. It would therefore save a certain amount of the time of the House if I could be permitted to alter my motion ; and I ask for permission to do so. Sir, I move :

“ That the Bill further to amend the Cantonments (House-Accommodation) Act, 1923, for certain purposes be referred to a Select Committee consisting of Pundit Hirday Nath Kunzru, Dr. B. S. Moonje, Nawab Sir Sahibzada Abdul Qaiyum, Mr. Ismail Khan, Mr. E. L. Price, Sardar Kartar Singh and Mr. Dwarka Prasad Misra with instructions to report on the 16th September, 1929, or as soon as possible thereafter, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four.”

Sir, I had hoped until this morning that the provisions of this Bill would prove entirely non-controversial. They are intended to secure an object which, I am sure the House will agree, is reasonable, namely, to secure accommodation for military officers in those cantonments in which, on account of their profession, they are compelled to live. The principle that special powers are required for this purpose has been accepted for a very long time, and the present Bill is necessary only because it has been found that the present procedure is somewhat cumbrous and also because experience has brought to light various other defects in the working of the Act. The points in the Bill on which I understand certain Honourable Members consider that further discussion is advisable are mostly points of detail, which can be discussed more suitably I think in Committee than on the floor of the House. I have no doubt that, as a result of discussion, the Committee will be able to reach agreement as to the particular form in which the amendments should be made.

Sir, I move.

Mr. M. S. Sessa Ayyangar (Madura and Ramnad *cum* Tinnevely : Non-Muhammadan Rural) : Sir, I am somewhat relieved to find that the original motion has been given up in favour of the present motion to refer this Bill to a Select Committee. I wish to mention two or three points to be considered by the Select Committee. In the first place I am very glad that the present cumbrous committee of arbitration is being given up and the reference is hereafter to be made only to the civil court. That is the only salient feature that I find in the Bill ; but unfortunately even there I find in clause 12, sub-section (3) of the proposed new section 29, that :

“ An appeal preferred under this section shall be deemed to be an appeal from an order within the meaning of section 108 of the Code of Civil Procedure, 1908 ”.

That is somewhat limited. I wish the Select Committee would consider the advisability of making it a regular appeal if it is possible.

[Mr. M. S. Sesha Ayyangar.]

Then, Sir, in sub-clause (b) of clause 4 there is a proviso :

“ Provided that nothing in this sub-section shall be deemed to affect the right of the Government to avoid the lease in any such event as is specified in clause (e) of section 108 of the Transfer of Property Act, 1882 ”.

In this particular matter, I find from the Notes on Clauses that the intention of Government is not to depart from the principle of section 7(3) (a) of the present Act which is already more than usually favourable to the lessor, but it is said that :

“ They see no reason why they should be excluded from the latter benefit mentioned above ”.

That is, the benefit given under the Transfer of Property Act in favour of lessees. But Government seem to forget that the particular Act provides for more or less involuntary dispossession of property which Government are allowed to continue to do under this Bill ; and in the case of ordinary lessors and lessees there is usually freedom of contract obtaining. But in this case the act of appropriation is more or less involuntary, and I do not think that in a case like this Government should also be given the benefit of the provisions of section 108 (e) of the Transfer of Property Act. To work it that way would be derogatory to the actual rights of the lessor. I would submit that the Select Committee will please consider whether this provision is necessary and this extra privilege, so to speak, should be vested in the Government.

Then, Sir, I refer to clause 3, new section 6 (b). This clause actually strengthens the hands of the military section of Government and also widens the powers of Government, because the provisions are very comprehensive and elastic. It is stated like this :

“ (b) the Officer Commanding the Station is satisfied that there is not in the cantonment a sufficient and assured supply of houses available at reasonable rates of rent by private agreement to meet the requirements of the military officers and military messes whose accommodation in the cantonment is, in his opinion, necessary or expedient ”, etc.

That, I submit, is rather wide and very comprehensive. Such extraordinary powers ought not to be given, in my humble opinion, to an Officer Commanding the cantonment, to find whether there are not sufficient houses for the occupation of the military. Similarly there is a corresponding weakening of the rights of private house-owners as we find mentioned in sub-clause (a). Once a military officer stationed in a cantonment states that he is unable to secure suitable accommodation in the cantonment on reasonable terms from private gentlemen, and that no suitable house or quarter belonging to Government is available for his occupation and the Officer Commanding the station is satisfied of the truth of the facts so stated, he may take the necessary action. That, I submit, is clearly an infringement upon the rights of private owners of houses in the cantonment area. That might be somewhat lessened by making it really available only in such cases as are absolutely necessary. This clause ought to be modified in such a way as not to tighten the grip of the Government and at the same time not to weaken the rights of private house-owners in cantonment areas. With these observations I support the motion.

Mr. G. B. F. Tottenham : Sir, I can assure the Honourable Member that the points which he has just raised will be taken into very careful consideration when the matter is discussed in Committee. The first point he raised about clause 12 of the Bill is a legal point with which I am afraid I am unable to deal at the present

moment. The second point regarding the proviso in clause 4—that is section 7 of the Act—is also a point that I admit had not occurred to me but I will look into it. The third point that he made with reference to the wording of clause 3 of the Bill was that it gave too large powers to Government. On that point I can only tell him that the Act, as it stands at present, gives even wider powers to Government. The only provision in the Act, as it stands at present, as to the powers of the Officer Commanding to appropriate houses is contained in section 8, which reads as follows :—

“ The Officer Commanding the District shall not sanction the issue of a notice unless he is satisfied that the house in respect of which it is proposed to issue the notice is suitable for occupation by a military officer or a military mess, and that there is not in the cantonment, or if the Act is in force in a part only of the cantonment, then in that part thereof, a sufficient number of houses already available and suitable for occupation by military officers or messes.”

That is the existing law. It gives the military authorities even wider powers than we propose to give under this Bill, which we have drafted in such a way as to bring out expressly the intention of the Government, namely, that the provisions of the Act should not be made use of until every attempt has been made to reach a voluntary agreement with the house-owner concerned. That is why we put in clause 3 in place of existing section 6 providing, firstly, that an officer can apply for accommodation to be appropriated for him only after satisfying the Officer Commanding that he has made every reasonable effort to find a house for himself by private agreement with one of the house-owners in the cantonment, and secondly, making it incumbent on the Officer Commanding the station, before he takes any general action under the Act, that he should be satisfied that houses are not available on reasonable terms by private agreement with the house-owners. We had thought therefore that this particular clause was a distinct improvement on the existing Act. However, I am quite willing, and I am sure that the Select Committee will be quite willing, to take all these matters into consideration.

Mr. President : The question is :

“ That the Bill further to amend the Cantonments (House-Accommodation) Act, 1923, for certain purposes be referred to a Select Committee consisting of Pandit Hirday Nath Kunzru, Dr. B. S. Moonje, Nawab Sir Sahibzada Abdul Qaiyum, Mr. Ismail Khan, Mr. E. L. Price, Sardar Kartar Singh, and Mr. Dwarka Prasad Misra, with instructions to report on the 16th September, 1929, or as soon as possible thereafter, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four.”

The motion was adopted.

THE INDIAN SALE OF GOODS BILL.

The Honourable Sir Brojendra Mitter (Law Member) : Sir, I beg to move that the Bill to define and amend the law relating to the sale of goods, be referred to a Select Committee consisting of Mr. D. F. Mulla, Mr. M. R. Jayakar, Mr. K. C. Neogy, Mr. M. A. Jinnah, Mr. Abdul Qadir Siddiqi, Mian Mohammad Shah Nawaz, Mr. N. C. Chunder, Mr. M. S. Sessa Ayyangar, Mr. V. V. Jogiah and myself, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be four. The law relating to the sale of goods is an important branch of the mercantile law. It affects the big merchant as well as the petty trader. The Indian law on the subject is now contained in chapter VII

[Sir Brojendra Mitter.]

of the Indian Contract Act of 1872, which was enacted 57 years ago. It consists of a set of elementary rules based mainly upon English judicial decisions as they stood in the sixties of the last century. The object in view, then, as stated by Sir James Stephen, was to provide a body of law so expressed that it might be readily understood both by English and Indian Judges without extrinsic help from the English law libraries. In other words, what was needed, in the seventies, was a guide for the Judge who had but little legal training, derived little or no assistance from the Bar, and worked at a distance from any law library. When Sir James Stephen moved the Indian Contract Bill in the Indian Legislature, he admitted that it was not and could not pretend to be a complete code upon the branch of law to which it related. The Special Committee, whose report is annexed to the Bill, reported as follows :

“ Whatever merit the simple and elementary rules embodied in the Indian Contract Act may have had, and however sufficient and suitable they may have been for the needs which they were intended to meet in 1872, the passage of time has revealed defects the removal of which has become necessary in order to keep the law abreast of the developments of modern business relations. The law relating to the sale of goods appertains mainly to mercantile transactions. There can be no doubt that during the last half-century conditions in this country relating to trade and business have undergone material changes. Methods of business have largely altered and new relations have arisen between man and man. In dealing with these relations, it has been necessary to give recognition to new principles, and the Indian Courts have found that a law enacted more than fifty years ago is entirely inadequate to enable them to deal with these new relations or give effect to the new principles. The result has been that on various occasions the Courts have had to hold that Chapter VII of the Indian Contract Act is not exhaustive, and to import therein analogies from the decisions of the English Courts.

The English law relating to the sale of goods which was admittedly the basis of Chapter VII of the Indian Contract Act has itself, since 1872, undergone drastic changes, and was finally codified in 1893 by the present Sale of Goods Act (56 & 57 Viet. C. 71), which discards many of the old common law rules upon which Chapter VII of the Indian Contract Act was based, in favour of provisions more suited to modern conditions or more convenient in actual practice.”

It is obvious, Sir, that this branch of the law in India required thorough overhauling. When my Honourable and learned friend, Mr. Mulla, was temporarily in charge of the Legislative Department last year, he prepared a Bill on the model of the English Sale of Goods Act, 1893. This Bill was referred by the Governor General in Council to a Special Committee consisting of Mr. Mulla, my Honourable and learned friend, Mr. Jayakar, the erudite Advocate General of Madras, Mr. Alladi Krishnaswami Aiyar, and myself. We examined the Bill closely, and, our Report, with detailed notes on clauses, is in the hands of Honourable Members. I do not wish to take up the time of the House by repeating all that is contained in that Report. But I wish with your permission, Sir, to draw the attention of the House to one or two passages in it. The Bill referred to us was mainly based on the English Sale of Goods Act, 1893. This Act has stood the test of nearly thirty-five years of practical application, and in the words of Lord Parker, “ is a very successful and correct codification of this branch of the mercantile law ”. As is shown in Appendix B to our Report, most of the Colonies and Overseas Dominions have adopted and re-enacted the Act with only such small variations as have been found necessary to adapt its provisions to local circumstances. It is also remarkable that the Uniform Sales Act, passed in 1906, in the United States of America, and adopted in twenty out of fifty-three States and territories,

is based very largely on the English Act. These facts constitute striking evidence of the completeness and the universal suitability of its provisions.

In mercantile transactions a conflict of laws should, as far as possible, be avoided. Uniformity of law in various countries, particularly in those which have business or trade dealings with one another, is highly convenient and desirable.

The Special Committee go on to say :

“ We, therefore, approve of the proposal to adopt the provisions of the English Sale of Goods Act so far as they are suitable to Indian conditions as the basis for the present Bill, and thus to make the Indian Law relating to the sale of goods as nearly as possible uniform with the law in force in other parts of the British Empire.

The provisions of the English-Act are far more elaborate and comprehensive than those of Chapter VII of the Indian Contract Act, and in their arrangement the English Act is more logical and methodical. As we have already observed, it has revised and brought up-to-date the rules of the English Common Law. Moreover, the adoption of the English Act as the basis of the present Bill will enable Indian Courts to interpret its provisions in the light of the decisions of the English Courts ”.

That, Sir, is the nature of the Bill. It is modelled on the English Sale of Goods Act and adapted to local conditions. Sir, I move.

Mr. President : Motion moved :

“ That the Bill to define and amend the law relating to the sale of goods, be referred to a Select Committee consisting of Mr. D. F. Mulla, Mr. M. R. Jayakar, Mr. K. C. Neogy, Mr. M. A. Jinnah, Mr. Abdul Qadir Siddiqi, Mian Mahommed Shah Nawaz, Mr. N. C. Chunder, Mr. M. S. Sessa Ayyangar, Mr. V. V. Jogia, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four.”

Mr. Vidya Sagar Pandya (Madras : Indian Commerce) : Sir, I wish to bring to the notice of the Honourable the Law Member, who just made the motion, that the Committee consists entirely of lawyers. This is a matter mostly for business men, and I think, Sir, there should be some non-lawyers and business men on the Committee.....

Mr. President : The Honourable Member might mention the names he wants to add without comments.

Mr. Vidya Sagar Pandya : Sir, I would therefore suggest that the names of Sir Purshotamdas Thakurdas and Mr. H. P. Mody be added to the Committee.

Mr. President : The question is :

“ That the names of Sir Purshotamdas Thakurdas and Mr. H. P. Mody be added to the Committee.”

The motion was adopted.

Mr. President : The question is :

“ That the Bill to define and amend the law relating to the sale of goods, be referred to a Select Committee consisting of Sir Purshotamdas Thakurdas, Mr. H. P. Mody, Mr. D. F. Mulla, Mr. M. R. Jayakar, Mr. K. C. Neogy, Mr. M. A. Jinnah, Mr. Abdul Qadir Siddiqi, Mian Mahommed Shah Nawaz, Mr. N. C. Chunder, Mr. M. S. Sessa Ayyangar, Mr. V. V. Jogiah, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four.”

The motion was adopted.

THE INDIAN CONTRACT (AMENDMENT) BILL.

The Honourable Sir Brojendra Mitter (Law Member) : Sir, I move that the Bill to amend section 178 of the Indian Contract Act, 1872, be referred to a Select Committee consisting of Mr. D. F. Mulla, Mr. M. R. Jaykar, Mr. K. C. Neogy, Mr. M. A. Jinnah, Mr. Abdul Qadir Siddiqi, Mian Mohammad Shah Nawaz, Mr. N. C. Chunder, Mr. M. S. Sessa Ayyangar, Mr. V. V. Jogiah and myself, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four.

Sir, this Bill refers to only one section of the Indian Contract Act, and that is the section dealing with pledge of goods by ostensible owners. In the Bill relating to the Sale of Goods, sale by ostensible owners is dealt with. It is now contained in section 108 of the Indian Contract Act. There has been a considerable amount of litigation over the meaning of the words "possession". Some Courts say "possession" means possession, other Courts say "possession" means juridical possession, while other Courts again say "possession" means physical custody. Anyhow, there has been a considerable body of case-law and uncertainty on this subject. In the Bill relating to the Sale of Goods, attempt has been made to give a clear meaning to the word "possession". That relates, as I have said, to sale by ostensible owners. Section 178, which deals with pledge, is outside the scope of that Bill. It is necessary that pledge by ostensible owners should be brought into line, so far as possession is concerned, with sale by ostensible owners. That is the purpose of this Bill. Sir, I move.

Mr. President : I understand Mr. Vidya Sagar Pandya would like to add the names of two non-lawyer Members.

Mr. Vidya Sagar Pandya (Madras : Indian Commerce) : Sir, I propose that the names of Sir Purshotamdas Thakurdas and Mr. H. P. Mody be added to this Select Committee also.

Mr. President : The question is that the names of Sir Purshotamdas Thakurdas and Mr. H. P. Mody be added to the Select Committee.

The motion was adopted.

Mr. President : The question is :

"That the Bill to amend section 178 of the Indian Contract Act, 1872, be referred to a Select Committee consisting of Sir Purshotamdas Thakurdas, Mr. H. P. Mody, Mr. D. F. Mulla, Mr. M. R. Jayakar, Mr. K. C. Neogy, Mr. M. A. Jinnah, Mr. Abdul Qadir Siddiqi, Mian Mohammad Shah Nawaz, Mr. N. C. Chunder, Mr. M. S. Sessa Ayyangar, Mr. V. V. Jogiah and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

The motion was adopted.

THE INDIAN INCOME-TAX (AMENDMENT) BILL.

(AMENDMENT OF SECTIONS 2, 23, ETC.)

The Honourable Sir George Schuster (Finance Member) : Sir, I beg to move that the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes (amendment of sections 2, 23, etc.), as reported by the Select Committee, be recommitted to a Select Committee consisting of Sir Purshotamdas Thakurdas, Haji Abdoola Haroon, Mr. H. P. Mody,

Sir Darcy Lindsay, Mr. M. S. Aney, Mr. K. C. Neogy, Mr. Mukhtar Singh, Mr. A. H. Ghuznavi, Mian Mohammad Shah Nawaz, Mr. Anwar-ul-Azim, Mr. K. C. Roy, Mr. V. K. Aravamudha Ayangar, Mr. Jamnadas M. Mehta, Mr. Vidya Sagar Pandya, Mr. Gaya Prasad Singh, Mr. T. A. K. Shervani and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be seven. This is a measure of legislation which has been before the House for some time. It was originally referred to a Select Committee and the Select Committee, after dealing with the Bill, concluded their Report as follows :

“ As we stated in the opening part of our Report, the Bill has not been essentially altered in principle, but the radical alterations in detail which we have made in clause 4 and the substitution of Boards of Referees as appellate tribunals in place of the High Courts undoubtedly raise questions which require the fullest consideration. We, therefore, as required by sub-order (4) of Standing Order 41, record our opinion that the Bill has been so altered as to require republication.”

The Bill was then circulated for opinion and we have now received the opinions from all parties concerned. The opinions are generally favourable, but they contain various suggestions, and I think it will be in the public interest if the matter is again referred to a Select Committee. Sir, I move.

The motion was adopted.

THE NEGOTIABLE INSTRUMENTS (AMENDMENT) BILL.

The Honourable Sir George Schuster (Finance Member) : I beg to move that the Bill further to amend the Negotiable Instruments Act, 1881, for a certain purpose (amendment of sections 13, 16, 35, etc.), be referred to a Select Committee consisting of Sir Purshotamdas Thakurdas, Mr. M. S. Aney, Mr. Fazal Ibrahim Rahimtulla, Mr. Anwar-ul-Azim, Mr. Ghanshyam Das Birla, Sardar Kartar Singh, Mr. Jamnadas M. Mehta, Mr. D. V. Belvi, Mr. Vidya Sagar Pandya, Mr. D. C. Stewart-Smith, Mr. G. L. Winterbotham and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.

Sir, the object of this Bill is to provide that negotiable instruments, including cheques and bills of exchange, which are expressed on the face of them as drawn to bearer, shall not in any circumstances lose their character as bearer instruments on account of their having been endorsed. The Bill is identical with that which was introduced by my predecessor Sir Basil Blackett on the 25th January, 1927. At the consideration stage of that Bill my Honourable friend, Sir Purshotamdas Thakurdas moved for its reference to a Select Committee, and, in doing so, he made it clear that if it was necessary to interpret the principle of the Bill as applying to all negotiable instruments without exception, then he would have to oppose the Bill altogether and that in moving for reference to a Select Committee he did not wish to be understood as accepting the universal application of such a principle. My Honourable friend was satisfied at that time with what was stated by Sir Basil Blackett, and on the present occasion I do not ask any Member of this House to commit himself further than my Honourable friend did when the Bill was previously considered.

[Sir George Schuster.]

The brief history of events leading up to my re-introduction of the Bill this Session is that, on the previous occasion, a Select Committee was appointed, but for various reasons no progress could be made during that Session, and in succeeding Sessions other business of greater interest intervened so that this matter was never followed up. The original Bill having now lapsed, the Member in charge of it having made no motion on it during the last two Sessions, it has become necessary for me to re-introduce it. The failure to arrange any meetings of the former Select Committee raised perhaps a natural presumption in my mind that the matter was not one of burning interest. But I have since heard from the Associated Chambers of Commerce and I have been informed that opinion among their constituent bodies has, if anything, strengthened since the subject was first brought up and that they definitely consider that this legislation is necessary. I understand at the same time that my Honourable friend Sir Purshotamdas Thakurdas still feels the same doubt as he did before about some of the provisions and that his feelings are based on opinions expressed by various Indian Chambers. In the circumstances, I have felt that the right course will be for me to revive the Bill, but on this occasion I have myself taken the initiative to move for its reference to a Select Committee. I cannot ignore the strong opinion expressed by the Associated Chambers of Commerce, but, on the other hand, I equally cannot ignore the fact that strong Indian commercial interests feel that it is desirable to move cautiously in the matter of legislation. In these circumstances, Government certainly do not wish to rush the matter without ample time for careful consideration of the provisions of the Bill which are of so technical a nature that the best form of consideration will be a Select Committee. With that explanation, I beg to move the motion standing in my name.

Sir Purshotamdas Thakurdas (Indian Merchants' Chamber : Indian Commerce) : Sir, I rise to oppose the motion of the Honourable the Finance Member. I must say at the very outset that the Honourable the Finance Member, in making his motion, did put the case to the House in a very fair manner. I have special reason to oppose this motion today. As the Honourable Member said, my opposition, or rather my hesitation in accepting all that was meant by the principle underlying the Bill in 1927, was based on a different basis altogether. Today I take up a different position, and I say that the Government of India are not justified in submitting this Bill to this House at this stage.

The Bill was referred to a Select Committee in 1927. There were, I think three meetings of that Select Committee, and as my Honourable friend Mr. Neogy who presided over the Select Committee may very vividly recollect, the Government found that they were unable to carry the Bill further, with the result that the Bill was allowed to lapse. I am fully aware that one branch of Indian commerce, as represented by the Associated Chambers of Commerce actually prompted this Bill at the start, and the Honourable the Finance Member has frankly told this House that he has taken up this Bill at this stage because of pressure from the Associated Chambers. It is my regret that the representative of the Associated Chambers in this House is not the same today as he was in 1927, for whilst I am glad to see my Honourable friend Mr. Winterbotham here, if Sir Walter Willson were here today, I am sure he would have

confirmed me in what I am now about to submit to the House.

The Bill, Sir, deals with one of the most important instruments of credit in this country, namely, the hundi. The complaint of the Associated Chambers of Commerce regarding the law as it stands is based on only one case, a case in which Messrs. Forbes Forbes Campbell and Co., Ltd., were defendants and which that firm eventually lost and had to make good Rs. 2,500 because they paid a bearer hundi, which was made payable to order, to the bearer. Since that case was decided against this firm in Bombay, as far as I am aware and as far as my Chamber are aware, there has been no further case to justify the Associated Chambers in pressing the Government of India to bring the motion now before the House. While the Associated Chambers of Commerce asked for this amendment of the Act, I am sure the Honourable the Finance Member will not forget that the Federation of Indian Chambers of Commerce, a body representing not less than 30 Indian commercial bodies, forwarded to Government a resolution unanimously passed at one of their meetings, asking Government to drop this legislation. In 1927, I, as representing the Indian Merchants' Chamber, agreed to act on the Select Committee on the understanding which the Honourable the Finance Member has mentioned to the House, but today I feel, with all deference to him, that the Government of India are not justified in asking this House to proceed further with this Bill. My reason is this. The Government of India have appointed a Banking Inquiry Committee and this question is included in the questionnaire of that Committee. Instruments of credit are going to be very exhaustively inquired into by that Committee, and I ask the Honourable the Finance Member if he, as the representative of the Governor General in Council, considers himself justified in voting for this motion when he knows that he himself has appointed a Committee which is charged with this task, namely, to inquire into what are the instruments of credit which are necessary for this country and suggest such modifications as may be required to meet the convenience of the commercial community. I do not wish today to take up the time of the House in explaining how the change which is sought to be made in this Bill regarding hundis will very seriously handicap the Indian commercial community. It will certainly, Sir, very materially handicap the Indian indigenous banker, the class which handles hundis most and which practically finances the large masses of India. Nothing should be entertained by the Government at this stage which interferes with what has been customary, and what I submit has been very safe as far as instruments of credit are concerned. I therefore feel, Sir, that this House would be very ill-advised in undertaking any amendment of the existing Act on this one case only of Messrs. Forbes Forbes Campbell and Co. Ltd., a case which goes back to seven or eight years and since when there has been no other case similar to the one complained of.

Pandit Madan Mohan Malaviya (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : Will you explain what that case was ?

Sir Purshotamdas Thakurdas : Certainly Sir, but, I do not know if the House will have the patience to hear that. Briefly, Messrs. Forbes Forbes Campbell and Co. had, a hundi drawn on their head office in Bombay by their Lahore agent. The hundi was payable to bearer. The man who held the hundi had endorsed it on the back saying, it should be paid to X. Y. Z. When the hundi was presented in Bombay, the head

[Sir Purshotamdas Thakurdas.]

office of the firm, not examining the endorsement, paid it, not to the man in whose name the endorsement was made, but to somebody else, the presenter of the hundi. After the hundi was paid, the party to whom it was made payable by the last endorsement claimed the money. There was a case in the Small Causes Court, Bombay. The then Chief Judge of the Small Causes Court, Bombay, Diwan Bahadur K. M. Javeri, decided the case No. 1762|18636 of 1922 against Forbes Forbes Campbell and Co. in January 1923. On appeal this was confirmed by Diwan Bahadur Javeri and Mr. Dadachanji. The case was taken to the High Court as far as I remember, but I speak subject to correction ; the learned Chief Judge's judgment was eventually upheld. The Associated Chamber thereupon took up the case and we have been hearing of this for some years now. Sir, the change which is sought to be made by this Bill is that a hundi, when drawn payable to bearer, should remain payable to bearer, irrespective of any endorsement on it. I do not, however, want to go into the merits of this, but I feel that the change should certainly not be made until the Banking Committee has inquired into the subject. The proposed change will mean that hundis will have to be sent by registered post by shroffs, and it will involve an enormous change in the whole system of working.

I therefore feel that the House would be badly advised in proceeding with this on the opinion of one section of the commercial community only. I would certainly like to pay due attention to the opinion of that section, but I would like the House to pay greater attention to the opinion of the Indian commercial bodies which deal with the vast masses of India. I therefore have no option but to oppose this motion at this stage.

Mr. Vidya Sagar Pandya (Madras : Indian Commerce) : I am very sorry that I have also to oppose this motion made by the Honourable the Finance Member. I was also a member of the Select Committee at which this subject was thoroughly gone into, and after the most careful consideration, we found that the hundi, which is one of the most important instruments used by the business community in India, should not be interfered with in any manner. But the European Associated Chambers of Commerce are able to exert a great deal of influence with the Government. I am reminded of a vernacular proverb :

“ *Mianji bole, aur
dadhī hilne lagi.* ”

meaning, “ As soon as the man speaks his beard moves ”. The European Chambers speak and the Government follow. The majority of the Committee were against the change, and it was clearly demonstrated to the satisfaction of the last Finance Member that it was very difficult to amend the Act in such a way as to keep out hundis altogether. Still the Government wants to oblige the Associated Chambers, and the real fact is that the European Bankers in India want to follow the English practice. They are under the impression that because a cheque is drawn originally payable to bearer it always remains payable to bearer. Under the Indian law it is not so. In case they want to have some special facilities for these bankers, it will be better to make some amendment of the law relating to cheques only, but we should not under any circumstances interfere with the law of hundi. It affords a great deal of protection to

the holders of the hundis. Otherwise it will mean taking away a very important and old right from the holder of a hundi if you interfere with it and make it payable to the bearer. I should certainly, Sir, oppose this in the light of the experience and discussion we had had at three or four meetings of the Select Committee and it was hoped that the Bill would be brought in in some amended form, but so far as I see—I speak subject to correction—I do not think there is any alteration made in the provisions of the Bill and we have it again here just in the same form as before. The Associated European Chambers of Commerce want the Bill to be passed in the same form as before and the obliging Finance Member is also prepared to meet their wishes. Sir, I oppose it.

Mr. G. L. Winterbotham (Associated Chambers of Commerce : Nominated Non-Official) : Mr. President, Sir I am really grateful for the compliment which the last speaker paid me in implying by the quotation of his Indian proverb that I, as representing the Associated Chambers of Commerce, have the Government of India in my pocket. I only wish, Sir, that this had been true because in that case on many important questions on which we are almost daily engaged in waging war with the Government of India we should have saved ourselves an enormous amount of troubles. But the truth is that it is only on very rare occasions when we have the best of cases that the Government of India have listened to us and accepted our arguments. (Laughter.) Well, Sir, that may not be accepted by the Honourable Member, but I can assure him, having worked in the capacity of President of the Associated Chambers of Commerce, that it is nothing but the bare truth. Well, Sir, I am very sorry that I cannot agree with my Honourable friend who represents the Indian Merchants' Chamber in opposing the motion moved by the Honourable the Finance Member. I am all the more sorry because I agree with some very wise words spoken by Sir Purshotamdas Thakurdas last year that it ought to be possible for all shades of commercial opinion and all brands of commerce in this country to work together. But there are bound to be differences of opinion and in this case I do not myself see any justification for postponing consideration of this Bill in Select Committee by reason of the fact that the Banking Inquiry Committee has been appointed. That Banking Committee has got to deal with an enormous variety of very important subjects, and I do not think that this particular point, which is a comparatively small technical one, is one which will engage an enormous amount of their attention. Quite apart from that, Sir, we have heard previously this afternoon the statement that it is not always wise to argue that if there is an important bit of legislation under consideration, it should be held over pending the consideration of the whole subject later on. And when that argument was uttered, I distinctly heard my Honourable friend, Sir Purshotamdas Thakurdas, say "Hear, hear" in a loud voice. Now, Sir, there are two points. One, which has been suggested by my Honourable friend, is that the whole question of the use of hundis is affected by this Bill. That definitely is not so. This emerges—I do not know whether I am in order in quoting this—from the summary of the question put before the Select Committee, when the Bill was previously sent to them, by the then Finance Member, Sir Basil Blackett. The other point of objection is that of my friend, Sir Purshotamdas Thakurdas, who suggested that all shades of Indian commercial opinion were against this Bill. That, again, Sir is definitely not

[Mr. G. L. Winterbotham.]

the fact, because from the same note it appears that there were only very few bodies who were opposed to the Bill, and those not on very strong grounds. There was a very large body of Indian opinion, including small Indian banks, who were in favour of legislation. That is incontrovertible. The evidence is available and I do not enlarge on that point. But on the question of hundis, Sir, it is a curious fact that my Honourable friend should argue that the Bill will adversely affect the development of banking, because one argument which Sir Basil Blackett at that time advanced was that, unless this Bill was passed, progress in banking would be impeded in the country. There we have two exactly opposite opinions, and I am bound to say from my study of the question which I have only recently taken up from this file which is available to me, that I prefer on that point the opinion of Sir Basil Blackett, with all due deference to my friend on my right.

Mr. Jamnadas M. Mehta : Very unwise.

Mr. G. L. Winterbotham : I may point out Sir, on this question of what hundis were going to be affected, that it was found that hundis were of two varieties, I regret I cannot pronounce either name, the *Shah-jog* and the *Dekhaduar*. The former class of hundi, which I understand forms the majority of hundis, has been ruled by the Courts as not being of the bearer type. So the consideration of what hundis would be affected by this proposed legislation is confined to the question of the *Dekhaduar* class ; I apologise if I pronounce it wrongly. This is only used in a comparatively small number of business centres. Finally, Sir, my Honourable friend, Sir Purshotamdas Thakurdas, argued that the necessity for this legislation was based on one case only. That is only one case which has been fought in the courts ; but it is not the fact that cases do not arise. They do arise continually. Only two or three days before I came up to Simla for the Session of this Honourable House there was a case in my own office of a bearer hundi which bore six or seven endorsements, all in vernacular and not all in the same vernacular, which had, in spite of all inquiries that could be made, been paid to the wrong person, and there is the possibility of trouble arising out of that. Well, Sir, I can only assure Honourable Members that this is not a question where opinion is divided between European commercial interests and Indian commercial interests. Very far from it. I would ask the Honourable House to study the opinions which were given from all sources when this Bill was referred to a Select Committee in 1927. It seems to me to be a particularly important piece of legislation in the interest of the spread of banking facilities in India ; and if it is argued that the holder of a bearer hundi loses the protection afforded by the law if he cannot endorse it, then I would reply that banks and others have a much stronger case when they claimed that they have no protection at all if a bearer instrument can be altered from its class by endorsement. Sir, I strongly support the motion moved by the Honourable the Finance Member.

Mr. A. Rangaswami Iyengar (Tanjore *cum* Trichinopoly : Non-Muhammadian Rural) : Sir, I desire to support the suggestion made by Sir Purshotamdas Thakurdas, and my only excuse for being here to make a speech is that I was on the earlier Select Committee on this Bill. I do not want to enter into any technical discussion as to the nature of the hundis

which will become negotiable and the nature of the hundis which will not become negotiable. I leave that to the commercial magnates here to consider. But, Sir, when I was on the earlier Select Committee, we were dealing with two definite classes of people which to the average commonsense man seem to be equally worthy of consideration. There is, first of all, the man who draws a cheque or a bill or a hundi, or whatever it is, and I say it must be open to the man who draws or to the man to whom it is endorsed to make it not merely a bearer security but also a "payable to order" security. That is a right which every man has who is in possession of a negotiable security. That right will be taken away by the provisions which are now proposed by this Bill. The proposal is that so long as the original security is drawn to bearer, it shall not be altered by any holder thereof to be payable to order. That, Sir, is taking away the right of the holder of these securities. On the other hand, they say, the banks require protection. So long as a cheque is enfaced as payable to bearer, the bank must be relieved of the responsibility of finding out whether it had been endorsed in favour of anybody or had been endorsed to be payable to order. I say, Sir, so far as this country is concerned, we have not advanced to the stage in the expansion of credit in which these credit instruments can pass from hand to hand in place of currency notes as it were, but that is what the Associated Chambers of Commerce want to do with these bearer-drawn securities.

I say that in this country it is necessary to protect the holders of these documents when they want to protect themselves and to see that they are not stolen from themselves and passed off as currency. It must be open to them to have them endorsed as payable to order and thereby to protect the properties.

Mr. G. L. Winterbotham : Let them draw the hundi to order.

Mr. A. Rangaswami Iyengar : Every man who is in possession of a bearer bond ought to be in a position to secure his property therein by having it properly endorsed. It is a valuable property in this country and the trouble which the bank is put to, having regard to the transactions which the banks have to do in this country, is very small indeed. They have simply to look at the back of the paper and find out whether it is endorsed or not. Just in order to relieve the banks of this ordinary precaution you are asking the owners of these bonds to subject themselves to the risk of their properties being stolen away. That, I say, is the position of the common man of business, and in this country until we evolve a system of development of credit by which the cheque is more commonly in use, I say, Sir, that it is unwise immediately to adopt the law in this country on the same basis as the law or practice in England. I recollect also that, during the course of the discussion in the Select Committee, the legal point was argued with exceeding thoroughness by my friend Mr. Srinivasa Iyengar.....

Mr. President : Order, order.

Mr. A. Rangaswami Iyengar : I am sorry, Sir. So far as the question of law is concerned, I do not think it has been conclusively established that the law in England is exactly as this Bill would describe it to be. In fact, the repeated Select Committees that have been appointed on the Bill show that there is much room for doubt in this matter. On the whole, this is a very important matter, a thing which, as the Honourable the

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Finance Member and Sir Purshotamdas Thakurdas said, rightly affects the question of the expansion of credit facilities. It is a matter which the Banking Inquiry Committee would be in a better position to sift and to make the proper recommendation as to how best to expand this credit without merely accepting the *ipse dixit* of the Associated Chambers of Commerce.

Mr. E. L. Price (Bombay : European) : I was much surprised, Sir, to hear Sir Purshotamdas Thakurdas say that this was purely a European question. When this judgment was given years ago in Bombay, the first person I heard about it from was an Indian banker, a friend of mine, who told me that such a decision would absolutely upset the method of working in his bank. Now, Sir, at the present time, there are two sorts of documents, one to bearer and the other to order. But the effect of this decision is really to knock out the bearer document entirely. When we get a bearer document in any other part of the world, we do not go into any endorsement details at all. The holder submits it for payment to the bank ; he is paid the amount on its face and they are quits. But once you enter into the question of endorsements, you bring the "bearer" immediately into line with the "order" document, the result of which is that the commercial world is deprived of the benefit of the "bearer" document, because in actual practice in both cases you have got to look at the back, at the other side. And where I am told this has occasioned great annoyance and inconvenience to certain Indian merchants is this. In the old days before this decision, they got a bearer cheque which they presented in the bank. It was paid on its face value at once and no questions asked. Now, they are expected to stand there, identify themselves and often put an endorsement on it before getting paid. The net result of this decision is that the commercial world has been absolutely deprived of that useful document, the "bearer" document.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, I do hope that this House will refrain from entering into legal discussion now on this very complicated question. As a member of the last Select Committee I can say this much, without having to incur your displeasure, that it was not by mere force of numbers that this Bill was turned down but that the Committee was so impressed with the complexities of the whole question that the Honourable the Finance Member's predecessor did not think it proper to proceed with it further. He had ample time after the last meeting of the Select Committee was held to proceed with the measure if he had thought it right, but the very fact that he did not choose to take any action proves that he at any rate, was reconciled in the end to the Bill being dropped.

Now, Sir, Mr. Winterbotham has referred to two opposing opinions. On the one hand, he had the opinion of our Honourable friend Sir Purshotamdas Thakurdas, who has voiced the opinion of the Indian commercial community on this subject.

Mr. G. L. Winterbotham : Part of it.

Mr. K. C. Neogy : I do not know what authority my Honourable friend has got to say that.

Sir Purshotamdas Thakurdas : Mr. Winterbotham speaks for only 13 commercial bodies ; I speak for 30.

Mr. K. C. Neogy : When the Indian commercial community wishes to make any representations, there is one particular channel through which it demands to be heard. That is the Federation of Indian Chambers and this is the resolution that was adopted by that Federation :

“ This Congress protests against the proposed amendments in the Negotiable Instruments Act declaring any restrictions endorsed by a holder in due course on a cheque as null and void and requests the Government to drop the recent Bill on this subject.”

Therefore, I take it that, so far as the Indian commercial opinion is concerned, it is definitely opposed to this measure. We find the representative of the Associated Chambers of Commerce in this House supporting this Bill. Here is undoubtedly a conflict of opinion on a very important question. The Honourable Mr. Winterbotham himself has admitted that this is a very important question. If the importance of this question is so very great, why cannot you wait for the considered opinion of the Banking Inquiry Committee when you find that the Indian opinion is entirely opposed to it ?

Now, Sir, I do not think it right to make this a racial issue at all. As a matter of fact, when we considered this Bill in the Select Committee this aspect of the question was not at all brought forward before us. When we considered the matter there, it was as an independent question, which had nothing to do with the interests of the Indian community as against the interests of Europeans. I am therefore very sorry that this question has been raised on this occasion. I appeal to the Honourable Member in charge not to press this motion but to wait till the Report of the Banking Inquiry Committee is available.

The Honourable Sir George Schuster : Sir, I must confess at the outset that the discussion which my motion has aroused has come to me somewhat as a surprise. This Bill was, as I informed the House before, introduced on a former date, and my friend Sir Purshotamdas Thakurdas actually on that occasion himself proposed its reference to a Select Committee. I thought that, on the present occasion, in taking myself the initiative in proposing the reference to the Select Committee, I was amply meeting the views of those who, I knew, felt doubt about some of the provisions of this Bill. I cannot accept the historical account which Mr. Neogy has given us with regard to this measure. He spoke as though the Bill was definitely turned down or deliberately dropped. Investigations into the past records have given me a different view of the matter. I quite recognise that there were serious difficulties which developed in the discussions on the Select Committee, and it then appeared, as far as I could judge, that my predecessor, who was very much occupied, as no doubt every one will remember, after 1927 with other affairs, could find no time to go on with it. The matter was really left in a very unsatisfactory state. The discussion had not been concluded in any way.

It seems to me that the question really before the House is whether this complicated technical question should be thrashed out by a Select Committee of this House or should be discussed by the Banking Inquiry Committee. That is really what it comes to. I should like to say at the outset that I never had the slightest desire to force this measure in the teeth of great opposition. I wanted to initiate a discussion on a measure which it seemed to me required discussion.

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Now, Sir, as regards the proposals that this should be referred to the Banking Inquiry Committee, I naturally am always pleased when I find that the Banking Inquiry Committee is being regarded as a Committee of value to which useful tasks can be assigned. But, I do think that it is most important not to overload that Committee. That Committee has got a very big task before it, and I am extremely doubtful—and I am sure that my Honourable friend Sir Purshotamdas Thakurdas from his knowledge of the amount of the work which he sees before him must share my doubts—I am extremely doubtful whether the Committee will have time to thrash out detailed questions of this kind. I say detailed questions, although I fully recognise the importance of this particular question, but in a sense as compared with the task the Banking Inquiry Committee has got before it, this is detail.

Sir Purshotamdas Thakurdas : I suppose the Honourable Member will agree that the Banking Inquiry Committee cannot avoid going into questions as important as these according both to him and my Honourable friend Mr. Winterbotham.

The Honourable Sir George Schuster : I quite agree with my Honourable friend that this is a question which is germane to the inquiry which that Committee will conduct. I do not for a moment suggest that it is not. But I do think myself that that Committee's recommendations might be greatly facilitated by a careful examination of this particular detail affecting banking transactions by a Select Committee of this House. My contention is that the Banking Inquiry Committee will not have time to give detailed consideration to a measure of this kind.

Now, Sir, there have been suggestions by certain speakers—I am very glad that Mr. Neogy did not associate himself with them—that this is in a sense a racial measure, that the Government is trying to support European interests in bringing forward this legislation. I think, Sir, that the constitution of the Select Committee, which I myself proposed, is an answer to that charge. I am sure that it cannot be said that the Committee is unduly weighted in favour of European interests. I have little doubt that, if my Honourable friend Sir Purshotamdas Thakurdas really persists in his unqualified opposition to this measure, he will have ample opportunity to make his wishes effective on that Select Committee.

Sir Purshotamdas Thakurdas : Why waste time ?

The Honourable Sir George Schuster : I confess that I did not understand that my Honourable friend did offer unqualified opposition to this measure. Reading the past debate, I think I was entitled to draw a different conclusion. I understood that he saw dangers in the measure if it were made of universal application at that time, but certainly he admitted that it was an important question which deserved serious discussion. I believe the only point, the only new factor, which has arisen now and which has induced him to change his view is the inauguration of the Banking Inquiry Committee which, he thinks, affords a more proper body for discussing this measure. That, Sir, is where I regret to say, I differ from my Honourable friend. I believe that the Banking Inquiry Committee will be assisted by the discussion which would take place on the Select Committee which I propose.

The Government, Sir, in this matter is really trying to adopt an impartial attitude. We have no particular interest in it one way or the other. But on a study of the evidence, on a study of what has passed before, I have convinced myself that this was an important question which ought not to be left longer in abeyance. I therefore wanted to throw it open again for discussion on a Select Committee where every interest would be fairly represented. I have not the slightest intention, as I said before, of trying to force through legislation contrary to any determined opposition. I will say, here and now, that if in the course of the discussion of the Select Committee I became convinced that there were serious differences of opinion, and that there were serious grounds for those differences, and that they could not be got over, that in fact we had failed or that we were going to fail altogether to find a measure which would command common agreement, then I would be quite prepared to take steps to delay legislation until the Banking Inquiry Committee had reported. I am quite prepared to say that. But I do feel that, in justice to the interests on behalf of which my Honourable friend Mr. Winterbotham has spoken, and on behalf of other interests affected, for which he is not entitled to speak, I do feel, Sir, that I should not be right in failing to make an endeavour to get this important question discussed now without waiting possibly for two years until the Banking Inquiry Committee has reported. I would ask the House to express their views on my motion subject to the explanation which I have given.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : May I ask the Honourable Member why, in view of his own admission that the subject matter of this Bill will be germane to the Banking Inquiry Committee, pass this measure before that Committee makes its Report? Supposing the Banking Inquiry Committee in their Report do not approve of this legislation, what will happen? Will the Honourable Member introduce another Bill to repeal it or amend it?

The Honourable Sir George Schuster : In answer to my Honourable friend I would say that at this stage the House is not being asked to pass this Bill, but merely to refer it for consideration by the Select Committee. My contention has been that that examination by the Select Committee will advance the study of this question by a very important stage, and I do not think I should be justified in refusing to propose at least this step. I do not think it is likely that the Select Committee will furnish a Report which is completely inconsistent with the recommendations of the Banking Inquiry Committee. If it did so happen—I cannot myself conceive that it is at all likely to happen—but if it did so happen that this House passed legislation which was afterwards condemned by the Banking Inquiry Committee, a situation would arise which no doubt would have to be seriously considered by the Government. I do not think, Sir, I am called upon to consider so unlikely a situation in advance.

Mr. M. A. Jinnah : One more question, Sir? Will the Honourable Member give an assurance to this House that, if this motion is passed, the final stages of the Bill will be proceeded with after the Banking Inquiry Committee concludes its inquiry?

The Honourable Sir George Schuster : No, Sir. I am not prepared to give an assurance to go so far as that. I want to try and reach an agreement in the Select Committee by producing a measure which would command the general consent of commercial circles in India. I think

[Sir George Schuster.]

that the assurance which I already gave was quite sufficiently strong to meet my Honourable friend's point.

Mr. President : The question is :

" That the Bill further to amend the Negotiable Instruments Act, 1881, for a certain purpose (Amendment of sections 13, 16, 35, etc.), be referred to a Select Committee consisting of Sir Purshotamdas Thakurdas, Mr. M. S. Aney, Mr. Fazl Ibrahim Rahimtulla, Mr. Anwar-ul-Azim, Mr. Ghanshyam Das Birla, Sardar Kartar Singh, Mr. Jamnadas M. Mehta, Mr. D. V. Belvi, Mr. Vidya Sagar Pandya, Mr. D. C. Stewart-Smith, Mr. G. L. Winterbotham and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The Assembly divided :

AYES—42.

Abdul Aziz, Khan Bahadur Mian.
Abdul Qaiyum, Nawab Sir Sahibzada.
Ayangar, Mr. V. K. Aravamudha.
Bajpai, Mr. R. S.
Bower, Mr. E. H. M.
Chalmers, Mr. T. A.
Cosgrave, Mr. W. A.
Covernton, Mr. S. H.
Crerar, The Honourable Sir James.
Dakhan, Khan Bahadur W. M. P.
Ghulam Kadir Khan.
Ferrers, Mr. V. M.
French, Mr. J. C.
Ghazanfar Ali Khan, Mr.
Ghuznavi, Mr. A. H.
Gidney, Lieut.-Colonel H. A. J.
Hira Singh, Brar, Sardar Bahadur,
Honorary Captain.
Keane, Mr. M.
Lindsay, Sir Darcy.
Mitra, The Honourable Sir Bhupendra
Nath.
Mitter, The Honourable Sir Brojendra.

Mukharji, Rai Bahadur A. K.
Mukherjee, Rai Bahadur S. C.
Mulla, Dr. D. F.
Noyce, Sir Frank.
Pai, Mr. A. Upendra.
Philip, Mr. J. Y.
Porter, Lieut.-Colonel L. L.
Price, Mr. E. L.
Rainy, The Honourable Sir George.
Rau, Mr. P. R.
Rogers, Mr. P. G.
Roy, Mr. S. N.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Singh, Rai Bahadur S. N.
Stevenson, Mr. H. L.
Stewart-Smith, Mr. D. C.
Sykes, Mr. E. F.
Tin Tut, Mr.
Tottenham, Mr. G. R. F.
Winterbotham, Mr. G. L.
Yamin Khan, Mr. Muhammad.

NOES—47.

Abdoola Haroon, Haji.
Abdul Hays, Mr.
Abdul Matin Chaudhury, Maulvi.
Aney, Mr. M. S.
Ayyangar, Mr. M. S. Sessa.
Belvi, Mr. D. V.
Bhargava, Pandit Thakur Das.
Birla, Mr. Ghanshyam Das.
Chaman Lall, Diwan.
Chunder, Mr. N. C.
Das, Pandit Nilakantha.
Dutt, Mr. Amar Nath.
Haji, Mr. Sarabhai Nemchand.
Hans Raj, Lala.
Hyder, Dr. L. K.
Ismail Khan, Mr. Muhammad.
Iyengar, Mr. A. Rangaswami.
Jayakar, Mr. M. R.
Jinnah, Mr. M. A.
Jogiah, Mr. V. V.
Kartar Singh, Sardar.
Kolkar, Mr. N. C.
Kidwai, Mr. Rafi Ahmad.
Kunzru, Pandit Hirday Nath.

Lalchand Navalrai, Mr.
Malaviya, Pandit Madan Mohan.
Mehta, Mr. Jamnadas M.
Misra, Mr. Dwarka Prasad.
Mody, Mr. H. P.
Moonje, Dr. B. S.
Mukhtar Singh, Mr.
Naidu, Mr. B. P.
Neogy, Mr. K. C.
Pandya, Mr. Vidya Sagar.
Purshotamdas Thakurdas, Sir.
Rañque, Mr. Muhammad.
Rao, Mr. G. Sarvotham.
Sarda, Rai Sahib Harbilas.
Singh, Kumar Rananjaya.
Singh, Mr. Gaya Prasad.
Singh, Mr. Narayan Prasad.
Singh, Mr. Ram Narayan.
Sinha, Kumar Ganganand.
Sinha, Mr. Rajivaranjan Prasad.
Sinha, Mr. Siddheswar Prasad.
Tirloki Nath, Lala.
Yakub, Maulvi Muhammad.

The motion was negatived.

THE DANGEROUS DRUGS BILL.

The Honourable Sir George Schuster (Finance Member) : Sir, I beg to move that the Bill to centralise and vest in the Governor General in Council the control over certain operations relating to dangerous drugs and to increase and render uniform throughout British India the penalties for offences relating to such operations, be referred to a Select Committee consisting of Lieutenant-Colonel H. A. J. Gidney, Dr. B. S. Moonje, Pandit Thakur Das Bhargava, Mr. V. V. Jogiah, Pandit Nilakantha Das, Mian Mohammad Shah Nawaz, Mr. Abdul Haye, Mr. W. A. Cosgrave, Mr. H. L. Stevenson and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.

This Bill was circulated by order of the Assembly last Simla Session. When moving for circulation, my predecessor, Sir Bhupendra Nath Mitra, explained that the Bill, in spite of its size, was really a simple one. It is intended to unify and improve the law governing certain operations relating to dangerous drugs, law which is at present spread over a number of statutes ; and the main object is to embody those provisions that reflect the obligations which have been undertaken by the Government of India by their ratification of the Geneva Dangerous Drugs Convention of 1925. This intention has necessarily confined the scope of the Bill within definite limits. In some respects, the Bill deals with matters which technically belong to the provincial transferred subject of Excise, and when the consent of the Local Governments was obtained to this intrusion upon what is constitutionally their sphere, it was on a clear understanding as to the limits which should be set to this intrusion. It is therefore impossible to enlarge the scope of the Bill in any such way as was suggested by Mr. Duraiswamy Aiyangar when he spoke on the motion for circulation on the 21st September, 1928. This aspect of the case has been generally recognised by those who have sent in their opinions, and it may therefore still be said that the Bill is simple and non-contentious. At the same time a number of points of detail have been raised in the opinions received, and I feel that the best place for examining these will be in Select Committee. Sir, I move.

Mr. President : The question is :

“ That the Bill to centralise and vest in the Governor General in Council the control over certain operations relating to dangerous drugs and to increase and render uniform throughout British India the penalties for offences relating to such operations, be referred to a Select Committee consisting of Lieutenant-Colonel H. A. J. Gidney, Dr. B. S. Moonje, Pandit Thakur Das Bhargava, Mr. V. V. Jogiah, Pandit Nilakantha Das, Mian Mohammad Shah Nawaz, Mr. Abdul Haye, Mr. W. A. Cosgrave, Mr. H. L. Stevenson and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 10th September, 1929.