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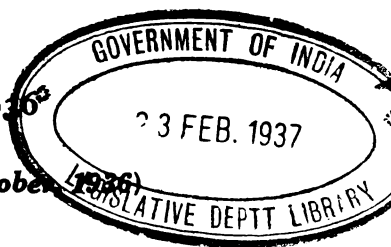
13th October 1936

# LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume IX, 1936

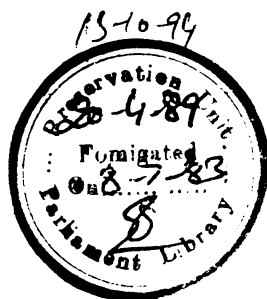
(9th October to 16th October 1936)



## FOURTH SESSION

OF THE

## FIFTH LEGISLATIVE ASSEMBLY, 1936



NEW DELHI  
GOVERNMENT OF INDIA PRESS  
1937

# Legislative Assembly.

## *President :*

THE HONOURABLE SIE ABDUR RAHIM, K.C.S.I., KT.

## *Deputy President :*

MR. AKHIL CHANDRA DUTTA, M.L.A.

## *Panel of Chairmen :*

MR. S. SATYAMURTI, M.L.A.

SIE LESLIE HUDSON, KT., M.L.A.

MR. ABDUL MATIN CHAUDHURY, M.L.A.

MR. M. S. ANEY, M.L.A.

## *Secretary :*

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

## *Assistant of the Secretary :*

RAI BAHADUR D. DUTT.

## *Marshal :*

CAPTAIN HAJI SARDAR NUB AHMAD KHAN, M.C., I.O.M., I.A.

## *Committee on Petitions :*

MR. AKHIL CHANDRA DUTTA, M.L.A., *Chairman.*

SIE LESLIE HUDSON, KT., M.L.A.

PANDIT NILAKANTHA DAS, M.L.A.

MAULVI SYED MURTUZA SAHIB BAHADUR, M.L.A.

MR. N. M. JOSHI, M.L.A.

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# LEGISLATIVE ASSEMBLY.

*Tuesday, 13th October, 1936.*

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

## QUESTIONS AND ANSWERS.

### REPORT ON THE HEALTH OF MR. SUBHASH CHANDRA BOSE.

1177. \*Mr. T. S. Avinashilingam Chettiar : Will Government state :

- (a) whether they are aware of the news headed " Subhash Bose' health " in the last page of the *Hindustan Times*, dated the 12th September, 1936 ;
- (b) whether he was examined by the doctors mentioned therein and whether they have submitted their report ; and
- (c) what is the present condition of his health as per their report ?

The Honourable Sir Henry Craik : (a) Yes.

(b) and (c). I would refer the Honourable Member to the reply given by me to question No. 1173.

### APPOINTMENT OF COMMITTEES SIMILAR TO HAJ COMMITTEES FOR THOSE GOING TO PLACES OF PILGRIMAGE IN INDIA AND OUTSIDE.

1178. \*Mr. B. Das : (a) Have Government considered the advisability of appointing committees similar to Haj Committees, for those going to different places of pilgrimage in India and outside ? If so, when ? If not, why not ?

(b) Have Government considered the advisability of appointing committees for those Indians who are going to Irak, Arabia, East and South Africa, and Fiji, etc. ? If so, when will such committees be appointed ? If not, why not ?

(c) Have Government inquired as to what class of food is supplied to Indians and at what rates by Peninsular and Oriental and British India and Italian Liners ? If not, are they prepared to do so and recommend or insist that the quality of food and the cooking thereof is made according to the taste of Indians and further that it is supplied at cheapest rates available, which should be ascertained by tenders, or Indians should be allowed to arrange cooking, etc., by themselves and food charges should be excluded from fares ?

(d) Do Government propose to see that proper and timely arrangements are made with regard to accommodation on all the boats carrying Indians, or do they propose to appoint a committee to arrange

or to negotiate with different companies, so that those companies who guarantee accommodation as may be suggested by such committee and at rates fixed by such committee, may only be allowed to carry Indian passengers from any port of India to anywhere ?

(c) Are Government aware that the members of the Port Haj Committee of Bombay are at present negotiating with some shipping companies as stated in part (d) ? If so, will they state what has been the result thereof and further to what extent they are authorised in this respect ? If not, are Government prepared to inquire and find out whether such negotiations are going on, or have already been carried out by the said committee, or on behalf of the committee, or in the name of the committee, and the result thereof ?

**Sir Girja Shankar Bajpai :** (a) 'Pilgrimages within British India' are a transferred provincial subject. As regards pilgrimages outside India for purposes other than the Haj, the need for such committees has not been felt.

(b) No, Sir. Government have not considered it necessary to do so.

(c) In the case of 'unberthed' passenger ships, Government have already exercised their powers under the Indian Merchant Shipping Act, 1923, to regulate the scale and quality of the food supplied to unberthed passengers and the cooking facilities to be provided for such passengers. As regards ordinary passenger steamers, Government have no such powers.

(d) Adequate legal provisions exist for ensuring that proper accommodation is provided on passenger ships for passengers, Indian or other, and the appointment of a committee for the purpose suggested by the Honourable Member is not considered necessary.

(e) No, Sir. Enquiries are, however, being made and the result will be communicated to the House in due course.

#### **SUBSIDY PAID TO THE BOMBAY PERSIA STEAM NAVIGATION COMPANY, LIMITED\***

1179. **\*Sardar Sant Singh :** Will Government be pleased to state if any subsidy is paid to the Bombay Persia Steam Navigation Company, Ltd., Bombay, for carrying passengers to Jeddah by way of carrying mails, or grant of any monopoly of any kind, for instance, for passengers or goods to Jeddah, or for guaranteeing the minimum number of passengers to the above port ? If so, what is the amount, and under what head is the same debited ?

**The Honourable Sir Muhammad Zafrullah Khan :** No subsidy, monopoly or guarantee of the kind referred to in the question is given by the Government of India to the Bombay Persia Steam Navigation Company, Limited.

#### **EXPENSES INCURRED BY GOVERNMENT ON CERTAIN HEADS CONNECTED WITH HAJ PILGRIMAGE.**

1180. **\*Sardar Sant Singh :** (i) What expenses do Government incur annually on the following heads and under what head are such expenses debited :

(a) quarantine at Kamaran ;

(b) Vice-Consulate and its staff at Jeddah for pilgrims ;

- (c) pilgrim department at Bombay and Karachi and Calcutta ;
- (d) Port Haj Committees at Bombay, Karachi and Calcutta ;
- (e) Standing Haj Committee of the Central Legislature ; and
- (f) salary and travelling expenses of the Government of India Secretariat in connection with Haj Pilgrims Act ?

(ii) What is the total amount so far incurred on the above heads since the passing of the Haj Pilgrims Act ?

**Sir Girja Shankar Bajpai :**

(i) (a) Nil.

(b) Rs. 55,600 (1936-37 budget).

(c) Does not arise as the Pilgrim Departments were abolished in 1934.

(d) Rs 33,600 (1936-37 budget).

(e) Rs. 1,500 is provided annually under demand " No. 35-Department of Education, Health and Lands ".

(f) The question does not arise as there is no separate staff for this work.

(ii) Apparently the Honourable Member is referring to the Port Haj Committees Act, 1932. A statement showing the information available in respect of (b), (c), (d) and (e) of part (i) of the question is laid on the table.

*Statement regarding expenditure incurred in connection with the Haj Pilgrimage work.*

	Expenditure incurred by the Government of India in 1933-34. (Actuals.)	Expenditure incurred by the Government of India in 1934-35. (Actuals.)	Budget provision for 1935-36. (Revised estimate.)	Budget provision for 1936-37.
	Rs.	Rs.	Rs.	Rs.
(a) Quarantine at Kamaran ..	..	..	..	..
(b) Vice-Consulate and its staff at Jeddah for pilgrims ..	70,890	63,291	59,500	55,600
(c) Pilgrim Departments at Bombay, Karachi and Calcutta ..	35,172			
(d) Port Haj Committees of Bombay, Karachi and Calcutta ..		33,451	31,900	33,600
(e) Standing Haj Committee of the Central Legislature ..	20	No expenditure.	No expenditure.	1,500
(f) Salary and travelling expenses of the Government of India Secretariat in connection with Haj Pilgrims Act. ..	..	..	..	..
	1,06,082	96,742	91,400	90,700

## NECESSITY FOR THE CONTINUATION OF PORT HAJ COMMITTEES.

1181. \***Sardar Sant Singh** : What necessity is there for the continuation of separate Port Haj Committees, and when do Government propose to abolish them in view of the understanding given during the debate on that Bill ?

**Sir Girja Shankar Bajpai** : The necessity for separate Port Haj Committees was explained in 1932 in the statement of Objects and Reasons appended to the Port Haj Committees Bill. Those reasons still hold good. No undertaking for the abolition of these Committees was given on behalf of Government.

## QUALIFICATIONS OF ASSISTANT SURGEONS ON STATE RAILWAYS.

1182 \***Pandit Krishna Kant Malaviya** : Will Government please state the qualifications of Assistant Surgeons on State Railways, class and administrationwise ?

**The Honourable Sir Muhammad Zafrullah Khan** : A Railway Assistant Surgeon must be a registered medical practitioner whose name is borne on one of the Indian provincial medical registers and must be in possession of a qualification not lower than that of M.B., B.S. of a university established by an Act of the Governor General in Council, or of a qualification registrable in the United Kingdom.

**Mr. Mohan Lal Saksena** : Will Government consider the desirability of recognising the degrees of the National Medical College at Calcutta ?

**The Honourable Sir Muhammad Zafrullah Khan** : I am unable to say without knowing what is the kind of instruction given in that college.

## RATIO IN THE RECRUITMENT OF ASSISTANT SURGEONS FOR RAILWAYS.

1183. \***Pandit Krishna Kant Malaviya** : Will Government please state whether they have fixed any ratio in the recruitment of Assistant Surgeons for railway services from civil, military and direct appointments ? If so, what is the ratio administrationwise, and is this ratio ever exceeded on any administration ? If so, why ?

**The Honourable Sir Muhammad Zafrullah Khan** : No definite ratio has been fixed but Government have agreed to employ twenty-three Military Assistant Surgeons on the four State-managed Railways and their distribution is as follows :

North Western Railway	..	..	10
East Indian Railway	..	..	4
Eastern Bengal Railway	..	..	4
Great Indian Peninsula Railway	..	..	5

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**TICKET CHECKING SYSTEM ON THE EAST INDIAN AND NORTH WESTERN RAILWAYS.**

1184. \*Pandit Krishna Kant Malaviya : With reference to the reply given to part (d) of starred question No. 231, asked in this House on the 12th February, 1932, regarding the system of ticket checking on the North Western and East Indian Railways, will Government please state the result of the experiment on the North Western Railway made between 1923 and 1925 ?

The Honourable Sir Muhammad Zafrullah Khan : The system referred to in the question amounted only to a train being checked by two T. T. Es., since then several other experiments have been tried on the North Western Railway.

Dr. Ziauddin Ahmad : Out of the various systems which have been tried, which system has been found to be most effective ?

The Honourable Sir Muhammad Zafrullah Khan : That is a large question. Different railway administrations have tried different systems. Some prefer one and some prefer the other.

Dr. Ziauddin Ahmad : Was this question discussed in the meetings of the Railway Conference ?

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member will give me notice of that question, I shall find that out.

Mr. Mohan Lal Saksena : What are the systems in vogue at present on the North Western and East Indian Railways ?

The Honourable Sir Muhammad Zafrullah Khan : I could not give the details of the systems without notice but the E. I. R. have tried what is the generally known as the crew system. The North Western Railway have tried various other expedients. One expedient was mentioned only the other day. A batch of ticket examiners were called for from the districts to headquarters for the purpose of carrying out some intensive checks.

**PRESSURE ON TICKET EXAMINERS TO INCREASE THEIR EARNINGS.**

1185. \*Pandit Krishna Kant Malaviya : With reference to the reply given to starred question No. 241, asked in this House on the 12th February, 1932, regarding pressure on ticket examiners to increase their earnings, will Government please state the result of the inquiry ?

The Honourable Sir Muhammad Zafrullah Khan : The information is being collected, and I will lay a reply on the table of the House in due course.

**RAILWAY SERVANTS AND PASSENGERS KILLED IN THE ACCIDENT AT SEGANLI, BENGAL AND NORTH WESTERN RAILWAY.**

1186. \*Mr. B. B. Varma : (a) Will Government be pleased to state the number of railway servants and passengers killed in the serious accident that took place at Seganli (Bengal and North Western Railway) station on the 31st January, 1936 ?

(b) Are Government aware if any compensation was paid to the persons killed by the authorities of the Bengal and North Western Railway ?

(c) If the answer to part (b) be in the affirmative, will Government be pleased to state the amount of compensation paid to each railway servant and passenger ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) One railway servant, and four persons who had intended to travel and were in the waiting hall at the time.

(b) and (c). The Agent states that Rs. 1,350 has been deposited under the Workmen's Compensation Act with the Commissioner for Workmen's Compensation for payment to the relatives of the railway servant, and that three other claims are under negotiation.

#### PROVISION OF A BRIDGE OVER THE GANDAK RIVER AT SAIDPUR GHAT NEAR PUSA.

1187. \***Mr. B. B. Varma :** Will Government be pleased to state :

(a) whether there is a proposal to bridge the Gandak river at Saidpur Ghat near Pusa in the District of Darbhanga, Bihar ;

(b) if so, when the project is likely to be taken up ;

(c) whether it is a fact that the project is only waiting the approval of the Government of India ; and

(d) whether they propose to accord their approval ?

**The Honourable Sir James Grigg :** (a) Yes.

(b) Government of India have no information.

(c) and (d). The Government of India have already accorded their approval.

**Dr. Ziauddin Ahmad :** Who will pay for this bridge, the Government or the B. & N. W. Railway ?

**The Honourable Sir James Grigg :** The Honourable Member had better put down a question.

#### RULES FOR RESIDENTIAL BUILDINGS ON STATE RAILWAYS.

1188. \***Dr. N. B. Khare :** With reference to the statement laid on the table on the 31st August, 1936, in reply to unstarred question No. 499 (d) asked in this House on the 7th April, 1936, regarding rules for residential buildings on State Railways, will Government please state the date of the notification of the rules issued in 1926 and to place on the table a copy of the said rules ?

**The Honourable Sir Muhammad Zafrullah Khan :** The Honourable Member is referred to a Press Communiqué, dated the 19th July, 1926, on the subject, a copy of which is placed in the Library of the House.

**GRANT OF PASSES TO THE STAFF EMPLOYED IN RAILWAY INSTITUTES.**

1189. \*Dr. N. B. Khare : With reference to the statement laid on the table on the 31st August, 1936, in reply to starred question No. 1424 asked in this House on the 23rd March, 1936, will Government please state whether the staff employed in railway institutes are provided with passes to travel as a passenger on a railway gratuitously and such passes are classified as "Duty pass" ? If so, under what authority, when they are not railway servants ?

**The Honourable Sir Muhammad Zafrullah Khan :** Government are not aware that duty passes are generally given to the staff employed in railway institutes, but it is possible that in certain circumstances an Administration may consider it desirable to issue such a pass.

**ALLOTMENT OF RAILWAY QUARTERS AT SIMLA.**

1190. \*Dr. N. B. Khare : Will Government please state :

(a) whether the Railway quarters at Simla are allotted to the staff whose pay does not provide the occupation against the rent fixed ; and, if so, why ; and

(b) whether the staff on Rs. 90 are provided with less accommodation than the staff on Rs. 57 or 60 ; if so, why ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) and (b). The quarters at Simla are of non-standard types but the quarters in question though affording slightly better accommodation than the standard type quarter Q.27R which is intended for occupation by staff drawing salaries of from Rs. 30 to 95 are taken as corresponding to that standard. When changes amongst the staff take place due to transfers, etc., a quarter occupied by the previous incumbent of the post is ordinarily allotted to his relief and it is not practicable to make reallotments of quarters to meet chance changes in the pay of an incumbent of a post.

**RANKS AND DESIGNATIONS WITH SCALES OF PAY ON STATE RAILWAYS.**

1191. \*Dr. N. B. Khare : Will Government please place on the table a statement showing the ranks and designations, with scales of pay, abolished and created since 1st January, 1925, till date, on State Railways administrationwise, gazetted and non-gazetted separately ?

**The Honourable Sir Muhammad Zafrullah Khan :** The information asked for is not readily available and its collection would involve an amount of labour and expense not likely to be justified by results.

**RANK OF OFFICERS UNDER DISTRICT SYSTEM EQUIVALENT TO SENIOR OFFICERS UNDER DIVISIONAL SYSTEM ON RAILWAYS.**

1192. \*Dr. N. B. Khare : Will Government please state the rank of officers under District System equivalent to senior scales officers under divisional system ?

**The Honourable Sir Muhammad Zafrullah Khan :** I would invite the Honourable Member's attention to Classified Lists of State Railway

Establishment and Distribution Return of Establishment of all Railways corrected upto the 31st December, 1922, and 31st December, 1935, copies of which are in the Library of the House.

#### DESIGNATION OF HEADS OF DEPARTMENTS ON STATE RAILWAYS.

1193. \*Dr. N. B. Khare : Will Government please state the Departments under a head together with the designation of such head on the State Railways, administrationwise ?

The Honourable Sir Muhammad Zafrullah Khan : I would invite the Honourable Member's attention to Classified List of State Railway Establishment and Distribution Return of Establishment of all Railways corrected up to the 31st December, 1935, a copy of which will be found in the Library of the House.

#### STRENGTH OF STAFF ON STATE RAILWAYS.

1194. \*Dr. N. B. Khare : Will Government please state :

- (a) whether it is a fact that the strength of the staff on State Railways was sanctioned by the Secretary of State for India and if so, what was the number of staff sanctioned in each category ;
- (b) the date and the nature of alterations in the strength made since ;
- (c) whether the power to abolish or create a post has ever been abused by the Agents ; and
- (d) whether the strength against each post in each scale of pay is shown by the administrations in their budget estimates ; if so, whether they are prepared to place a copy of such estimates showing the posts and strength for the preceding three years on the table of this House ; if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). For a long time, at any rate, since 1913, the Governor General in Council has had full power to sanction the creation of posts in Railway Services except posts carrying pay of over Rs. 50,000 per annum. In the circumstances Government consider it would not serve any useful purpose to endeavour to trace the alteration in strength made since the inception of State Railways.

(c) No.

(d) Statements showing superior service appointments with numbers and scales of pay are submitted by Railway Administrations with Budget Estimates and these are incorporated in the Pink Books (Revised and Budget Estimates) of the various Railways. Copies of these Pink Books are available in the Library of the House.

#### CHANGES IN RANKS AND DESIGNATIONS OF THE STAFF ON STATE RAILWAYS.

1195. \*Dr. N. B. Khare : Will Government please place on the table a statement showing the changes in ranks and designations, with scales of



pay, of the staff on State Railways (administrationwise, gazetted and non-gazetted, separately), whose nature of duties were not affected by such changes but scales of pay affected since 1st January, 1931 ?

**The Honourable Sir Muhammad Zafrullah Khan :** The information is not readily available and its collection would involve an amount of labour and expense not likely to be justified by results.

**PROTECTED MONUMENTS IN THE WESTERN CIRCLE.**

1196. **\*Mr. Nabi Baksh Illahi Baksh Bhutto :** (a) Will Government be pleased to state how many protected monuments are there in the Western Circle ?

(b) How many protected monuments are there in the Bombay Presidency ?

(c) How many protected monuments are there in Sind ?

(d) How many of the protected monuments in the Presidency are Muhammadan and how many non-Muhammadan ?

(e) How many of the protected monuments in Sind are Muhammadan and how many non-Muhammadan ?

(f) What is the allotment sanctioned each year for the Western Circle for conservation work ?

(g) How much of that allotment is spent on Muhammadan monuments and how much on non-Muhammadan monuments ?

**Sir Girja Shankar Bajpai :** (a) to (g). A statement is laid on the table.

*Statement.*

No. of Protected Monuments in the Western Circle.					Conservation allotment sanctioned for Western Circle.				
Bombay Presidency.		Sind.		Total.	Years.	Amount spent on Moham-	Amount spent on non-Moham-	Estab-lishment charges common to both kinds of monuments.	Total.
Moham-madan.	Non-Moham-madan.	Moham-madan.	Non-Moham-madan.			madan monuments.	madan monuments.		
						Rs.	Rs.	Rs.	Rs.
215	462	39	21	737	1932-33	11,938	23,919	10,049	45,906
					1933-34	16,087	16,756	16,399	49,242
					1934-35	14,867	12,336	20,510	47,713
					1935-36	13,583	18,095	26,487	58,165
					*1936-37	94,015	23,384	15,785	1,33,184

\* Figures for 1936-37 represent allotment only. Figures of actual expenditure will be available after the close of the year.

**MONEY SPENT FOR CONSERVATION OF PROTECTED MONUMENTS IN SIND.**

1197. \***Mr. Nabi Baksh Illahi Baksh Bhutto** : (a) Will Government be pleased to state how much money is spent for conservation in Sind by the Archæological Department annually ?

(b) How much of that money is spent on Muhammadan monuments and how much on non-Muhammadan monuments ?

**Sir Girja Shankar Bajpai** : (a) The amount spent fluctuates from year to year. Last year Rs. 4,596 was spent.

(b) Rs. 3,072 and Rs. 1,524 respectively.

**CONSERVATION OF PROTECTED MONUMENTS IN SIND.**

1198. \***Mr. Nabi Baksh Illahi Baksh Bhutto** : (a) Will Government be pleased to state whether it is a fact that almost the whole allotment for the conservation of the protected monuments in the Western Circle is spent in the Bombay Presidency and Sind monuments are neglected ?

(b) If so, do Government propose to consider the question of fair distribution of allotment between the Bombay Presidency and Sind according to the number of the protected monuments in each province ?

**Sir Girja Shankar Bajpai** : (a) No.

(b) Does not arise.

**CONSERVATION OF PROTECTED MONUMENTS IN THE BOMBAY PRESIDENCY AND IN SIND.**

1199. \***Mr. Nabi Baksh Illahi Baksh Bhutto** : (a) What is the system for conservation of protected monuments in vogue in the Bombay Presidency and in Sind, respectively ?

(b) Is it a fact that the conservation work in the Presidency as well as in Sind is carried out through the agency of the Public Works Department ?

(c) Is it a fact that in the Western Circle some subordinates were borrowed from the Public Works Department and archæologically trained by the Archæological Department for the supervision of the conservation work ? If so, how many such subordinates were trained in the Western Circle ?

(d) How many of those subordinates were Muhammadans and how many non-Muhammadan ?

(e) Is it a fact that all such trained subordinates at present serving in the Western Circle are non-Muhammadan ? If so, do Government propose to consider the question of appointing a proportionate number of archæologically trained Muhammadans for the supervision of the conservation work ?

**Sir Girja Shankar Bajpai** : (a) and (b). The conservation work in the Bombay Presidency, with a few exceptions, is executed by the Bombay Public Works Department. In Sind, all the work (except at Mohenjodaro) is now carried out by the local Public Works Department.

(c) The Government of Bombay detailed a number of subordinates for work on archæological monuments and placed them at the disposal of the Archæological Superintendent. The number of such subordinates has varied from time to time and it is not possible to give an exact figure.

(d) Only one was a Muhammadan.

(e) Yes. The question is one for consideration by the Government of Bombay who are the deputing authority.

**APPOINTMENT OF QUALIFIED AND ARCHÆOLOGICALLY TRAINED SUBORDINATES IN SIND.**

1200. \***Mr. Nabi Baksh Illahi Baksh Bhutto** : (a) Will Government be pleased to state whether it is a fact that all the archæologically trained Public Works Department subordinates of the Western Circle are posted in the Bombay Presidency and none in Sind ?

(b) If the answer to part (a) be in the affirmative, do Government propose to consider the question of appointing a proportionate number of qualified and archæologically trained subordinates in Sind as well ?

**Sir Girja Shankar Bajpai** : (a) By "archæologically trained" the Honourable Member presumably means Public Works Department subordinates who have at one time or another been employed on archæological works and thus acquired some experience of them. So far as the Government of India are aware, Sind is not without Public Works Department subordinates possessing such experience.

(b) Does not arise.

**HONORARY MAGISTRATES ON THE EAST INDIAN RAILWAY.**

1201. \***Mr. Muhammad Azhar Ali** : With reference to the reply given to starred question No. 453, asked in this House on the 14th February, 1936, regarding Honorary Magistrates on the East Indian Railway, will Government please state whether the staff of Honorary Magistrates are railway servants, or they are under and paid by their respective District Magistrates ?

**Mr. P. R. Rau** : Clerical staff for five honorary magistrates and peons for seventeen are railway servants.

**Mr. Mohan Lal Saksena** : Are Honorary Magistrates supplied with free passes ?

**Mr. P. R. Rau** : This question has been answered several times on the floor of the House. On the East Indian Railway, I believe Honorary Magistrates are allowed passes within their jurisdiction.

**Dr. Ziauddin Ahmad** : With what object ?

**Mr. P. R. Rau** : In order to facilitate their transportation from one place to another within their jurisdiction.

**Dr. Ziauddin Ahmad** : Are they used for private travelling or only when they are on duty ?

**Mr. P. R. Rau** : On duty, I believe.

**Mr. Mohan Lal Saksena** : Do they hold courts at different places ?

**Mr. P. R. Rau** : I think so.

### SALE OF POSTAGE STAMPS ON HOLIDAYS AND SUNDAYS.

1202. \***Mr. Muhammad Azhar Ali** : Is it a fact that from the Railway Mail Service offices at Capital Stations of India and Local Governments postal stamps are not obtainable at any hour on holidays and Sundays ? If so, is the Honourable Member for Industries and Labour prepared to consider the desirability of fixing such hours in the morning and evening which can conveniently be availed of by the public ?

**The Honourable Sir Frank Noyce** : As regards the first part, the fact is not exactly as stated by the Honourable Member. In many of the Railway Mail Service Offices at large stations, stamps are sold during certain notified hours on Sundays and post office holidays. As regards the later part, the Director-General is issuing orders for similar arrangements to be made at the remaining Railway Mail Service Offices.

### TICKET CHECKING STAFF ON THE EAST INDIAN AND NORTH WESTERN RAILWAYS.

1203. \***Mr. Muhammad Azhar Ali** : With reference to the reply given to parts (a) and (b) of starred question No. 465, asked in this House on the 14th February, 1936, regarding ticket checking staff on the East Indian and the North Western Railways, will the Honourable Member for Commerce and Railways please state the notification under which the control over the staff under Accounts Department was transferred to Operating Department ?

**Mr. P. B. Rau** : I would refer the Honourable Member to the reply to Qazi Muhammad Ahmad Kazmi's question No. 832 asked on the floor of this House on the 26th February, 1936.

**Dr. Ziauddin Ahmad** : May I ask if it is a fact that they have got the same rules and the same orders for the N. W. Railway and the E. I. Railway but they are differently applied by the two administrations and that is the cause of the trouble ?

**Mr. P. B. Rau** : My Honourable friend has brought that question to the notice of the Railway Board more times than one. There is no reason to alter our present orders.

**Dr. Ziauddin Ahmad** : Is it a fact that the Railway Board have issued the same orders to the two administrations ?

**Mr. P. B. Rau** : I could not say without looking at the papers.

### STAFF OF THE INDIAN RAILWAY CONFERENCE ASSOCIATION.

1204. \***Mr. Muhammad Azhar Ali** : With reference to the reply given to part (b) of starred question No. 469, asked in this House on the 14th February, 1936, regarding staff of the Indian Railway Conference Association, will Government please state the terms on which Government servants are lent to the Indian Railway Conference Association ?

**Mr. P. B. Rau** : Railway servants are lent to the Indian Railway Conference Association ordinarily under foreign service terms laid down in Chapter XII of Fundamental Rules, a copy of which is in the Library of the House.

**EDUCATIONAL ASSISTANCE TO THE CHILDREN OF THE RAILWAY STAFF READING IN THE HINDU AND MUSLIM UNIVERSITIES.**

1205. **\*Mr. Muhammad Azhar Ali** : With reference to the reply given to starred question No. 470, asked in this House on the 14th February, 1936, regarding educational assistance to the children of the Railway staff reading in the Hindu and Muslim Universities, will the Honourable Member for Commerce and Railways please state the schools and colleges other than at Lucknow which are recognized by the Railway Administration ? If none, why not ?

**Mr. P. B. Rau** : A statement is laid on the table.

*Statement showing schools and colleges other than those at Lucknow recognised for the purposes of assistance granted under the (old Oudh-Rohilkund Railway) rules.*

St. Joseph's College, Naini Tal.  
 Diocesan Boys' High School, Naini Tal.  
 All Saints' Diocesan College for Girls, Naini Tal.  
 St. Mary's Convent, Naini Tal.  
 Philander Smith College, Naini Tal.  
 Wellesley Girls High School, Naini Tal.  
 Oakgrove High School, Mussoorie.  
 Caineville House School, Mussoorie.  
 Convent of Jesus and Mary, Waverley, Mussoorie.  
 St. George's College, Mussoorie.  
 St. Fidelis' High School, Mussoorie.  
 Woodlands School, Mussoorie.  
 Woodstock College for Girls, Mussoorie.  
 Wynberg High School, Mussoorie.  
 Convent Jesus and Mary, Hampton Court, Mussoorie.  
 Vincent High School, Mussoorie.  
 Church of England Home Dumbarnie, Mussoorie.  
 St. Joseph's Convent High School, Dehra Dun.

**MILEAGE ALLOWANCE PAID TO THE ROAD VAN CLERKS ON THE NORTH WESTERN RAILWAY.**

1206. **\*Mr. Muhammad Azhar Ali** : With reference to the reply given to starred question No. 475, asked in this House on the 14th February, 1936, regarding mileage allowance paid to road van-clerks on the North Western Railway, will the Honourable Member for Commerce and Railways please state the result of the consideration and the final orders issued ?

**Mr. P. B. Rau** : Government have issued orders to the Agent, North Western Railway, that steps should be taken to discontinue the mileage allowance and grant van checkers ordinary travelling allowance under the ordinary rules in force.

RENT PAID BY THE INDIAN RAILWAY CONFERENCE ASSOCIATION FOR  
GOVERNMENT BUILDINGS AT DELHI.

1207. \*Mr. Muhammad Azhar Ali : With reference to the reply given to starred question No. 476, asked in this House on the 14th February, 1936, will Government please state the amount of the rent paid by the Indian Railway Conference Association for the Government buildings at Delhi ?

Mr. P. B. Rau : Rs. 650 a month.

AMOUNT PAID BY THE INDIAN RAILWAY CONFERENCE ASSOCIATION FOR THEIR  
Dak FROM DELHI TO SIMLA.

1208. \*Mr. Muhammad Azhar Ali : Will Government please state whether the correspondence, letters, files and other articles from the Indian Railway Conference Association are transmitted by the Railway Administrations free of charge and freight ? If not, will they please state the amount paid by the Association for their *dak* from Delhi to Simla during the years 1935 and 1936 ?

Mr. P. B. Rau : The reply to the first part is in the affirmative and the second part does not, therefore, arise.

PROMOTION OF CLERICAL STAFF TO THE POSTS OF TRANSPORTATION INSPECTORS  
AND LOWER GAZETTED OFFICERS.

1209. \*Mr. Muhammad Azhar Ali : With reference to the reply given to part (b) of starred question No. 488, asked in this House on the 14th February, 1936, viz., "the 'Rules for the recruitment and training of subordinate staff' do not apply to clerical staff", will the Honourable Members for Commerce and Railways please state the rule which provides for the promotion of clerical staff to the posts of Transportation Inspectors and to the posts of lower gazetted officers ?

Mr. P. B. Rau : Rules for the recruitment and training of subordinate staff on the State-managed Railways do not provide for the promotion of clerical staff to the posts of Transportation Inspectors and Lower Gazetted Officers but there is no objection to the appointment to these posts of clerical staff who may be considered to possess suitable qualifications.

ADULTERATED TEA LEAVES SOLD FOR HUMAN CONSUMPTION.

1210. \*Pandit Nilakantha Das : Will Government state :

(a) whether they are aware that any tea, not fit for ordinary human consumption and fit for either being turned into manure or for being used in extracting chemicals, like stannic acid, therefrom, is sold in India for human consumption, specially in provinces like Bihar and Orissa ;

(b) if so, what its average or approximate quantity is ;

(c) whether there is any factory or firm, specially in the Madras Presidency, for preparing non-tea leaves which are mixed up with tea to make cheap adulterated tea ;

- (d) if so, which are those factories or firms, and what quantity (average or approximate) of such leaves they supply to the tea merchants of this country ;
- (e) whether it is a fact that in big cities and settlements like Calcutta or Jamshedpur, used wet tea leaves are dried and coloured in large quantities to be mixed up with good tea for the markets for the poor people ;
- (f) if so, what is the estimated quantity (average or approximate) of such dried and coloured tea used for adulteration ; and
- (g) whether there is any provision, statutory or otherwise, to deal with such adulterations ; if so, what they are ?

**Sir Girja Shankar Bajpai :** (a) to (f). Government have no information but enquiries will be made and such information as is obtained will be laid on the table of the House in due course.

(g) There are Provincial Acts for the prevention of adulteration of food.

#### CONDITION OF HEALTH OF POLITICAL PRISONERS IN THE CELLULAR JAIL IN THE ANDAMANS.

1211. **\*Pandit Lakshmi Kanta Maitra :** (a) With reference to the statement laid by the Honourable the Home Member in reply to starred question No. 323, on the 11th September, 1936, regarding the condition of health of the Political Prisoners in the Cellular Jail in the Andamans, will Government be pleased to state how the prisoners came to have fracture, multiple injuries, contusion, sprain, wounds, abrasion and burns while in jail ?

(b) What precautions, if any, have the jail authorities taken to prevent recurrence of the same ?

(c) In view of the prevalence amongst the prisoners of pneumonia, bronchitis, bronchial asthma, influenza and rheumatism, do Government propose to provide them with sufficient warm clothing and make the cells sufficiently damp-proof and more sanitary ?

(d) Is it not a fact that the largest number of patients in this jail are sufferers from malaria and that the cases of malaria have been steadily on the increase year after year since July, 1933 ? What anti-malarial measures have been adopted by the jail authorities to check the menacing growth of this disease ?

(e) What is the latest condition of the three patients who had been suffering from pulmonary tuberculosis since 1933 ?

(f) Will Government be pleased to state the reasons for the steady increase in the total number of patients suffering from various diseases from 85 during July, 1933 to December, 1933, to 220 in 1934, to 276 in 1935 and to 162 in the first half of 1936 ?

(g) In view of the fact that out of the total of 300 Political Prisoners in the Andamans, 276 suffered from as many as 50 different kinds of diseases, do Government propose to take special measures for improving the sanitary condition of the Penal Settlement ?

**The Honourable Sir Henry Craik :** (a) and (b). I have no information as to how the prisoners received the injuries. Accidents probably happened either at play (football, etc.), or at work in the sheds or the kitchen.

(c) The statement does not warrant the view that pneumonia, bronchitis, bronchial asthma and rheumatism are prevalent among the prisoners. As regards influenza, the experience has been that each batch of prisoners from Calcutta brought influenza with them. There has however been a notable decrease in influenza cases. Adequate clothing is provided for the prisoners. The cells have good ventilation and are free from damp and the sanitary arrangements of the Jail are satisfactory.

(d) The large majority of malaria cases are recurrences of old infection. The Honourable Member is quite incorrect in assuming that malaria is on the increase. On the contrary, the percentage of convicts suffering from malaria has very much decreased. This improvement has been achieved by the draining of the swamps and by the careful medical treatment of the prisoners.

(e) There are no patients in the Jail who have been suffering from pulmonary tuberculosis from 1933. The very few prisoners who suffered from this disease were sent back to India. All had an unsatisfactory record of health before they were sent to the Andamans.

(f) and (g). There is no increase in disease if the increase in the number of prisoners is taken into consideration. In the period under review the number of prisoners has risen from about 160 to nearly 300. Many of the ailments—i.e., dyspepsia and coryza, which account for a large number of cases—are trivial. The health figures in the Cellular Jail compare very favourably with those of jails in Bengal, whence most of the prisoners come. The Government are satisfied that the health of the prisoners in the Cellular Jail is a credit to the administration.

#### OLD COACHING AND GOODS CARRIAGES AND WAGONS ON THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

1212. **\*Pandit Sri Krishna Dutta Paliwal :** (a) Will Government state the number of coaching and goods stock—carriages and wagons—on the metre-gauge Bombay, Baroda and Central India Railway, that have become old and worn, i.e., their normal life has expired ?

(b) Will Government state the number of the wagons which have been replaced by new ones and the number of old ones still working with slight repairs ?

(c) Is it a fact that the said Railway Company has stopped replacing the time-worn stock and is merely doing patch work to keep them going ? If so, why ?

(d) Do Government propose to see that the old stock is regularly replaced by new ones as occasion arises ?

(e) Is it a fact that the said Railway Company is selling plots of land in Jonesgunj and other places in Ajmer at high prices to the residents of the locality with a view to make profits ?

**Mr. P. R. Rau :** (a) and (b). During 1937-38, 465 coaching vehicles and 1,966 goods vehicles in terms of 4-wheelers will have exceeded the



ages of 30 years and 40 years respectively. For the years 1934-35 to 1937-38, 1,116 goods vehicles in terms of 4-wheelers have been provided for in the budget estimates as replacements.

(c) Government have no reason to believe that such is the case.

(d) Government keep a constant watch over the position.

(e) No.

**Mr. Mohan Lal Saksena :** When does the contract of the B. B. and C. I. Railway expire ?

**Mr. P. E. Rau :** In 1941.

**Mr. M. Ananthasayanam Ayyangar :** Are these carriages replaced every year ?

**Mr. P. E. Rau :** As necessary.

**Mr. M. Ananthasayanam Ayyangar :** Will the Honourable Member consider the desirability of remodelling carriages whenever they are newly built in accordance with the model carriage shown at Delhi for third class passengers ?

**Mr. P. E. Rau :** That is one of the considerations that is kept in view.

#### REPORT OF THE ISTAMRARDARS ENQUIRY COMMITTEE.

1213. **\*Pandit Sri Krishna Dutta Paliwal :** (a) Have Government arrived at any conclusion concerning the Istamrardars Enquiry Committee's Report ?

(b) If so, do Government propose to publish them ?

**Sir Aubrey Metcalfe :** (a) No.

(b) Does not arise.

**Prof. N. G. Ranga :** Is that inquiry still going on or the report has already been submitted to the Government ?

**Sir Aubrey Metcalfe :** I cannot say that for certain. I do not think the report has yet been submitted.

**Prof. N. G. Ranga :** Is it not a fact that as long ago as the Delhi Session of 1935, Government had promised to this House that this inquiry would be held as expeditiously as possible and relief would be given to the peasants there ?

**Sir Aubrey Metcalfe :** If the Honourable Member wants the exact dates, then I must ask him for notice.

**Mr. Mohan Lal Saksena :** How long will this inquiry take ?

**Sir Aubrey Metcalfe :** There, again, I must ask for notice.

#### PERIOD OF SUPERSESSION OF THE AJMER MUNICIPALITY.

1214. **\*Pandit Sri Krishna Dutta Paliwal :** (a) Is it a fact that the period of supersession of the Ajmer Municipality expires in August, 1937 ?

(b) Do Government propose to extend the period of supersession or hand it over back to the public in August, 1937 ?

(c) If Government propose to extend the period will they state the reasons for doing so ?

(d) Is there any foundation for the report that the Local Government proposes to break up the present Committee also and hand over the administration to an administrator on a very high salary ?

(e) If so, will Government kindly state the reason or reasons for the same ?

**Sir Aubrey Metcalfe :** (a) The Ajmer Municipal Committee was superseded under the orders of the Chief Commissioner with effect from the 1st August, 1934. No definite period of supersession has been fixed.

(b) No decision has yet been reached as regards the future of the Municipality.

(d) No.

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

**Mr. Mohan Lal Saksena :** May I ask when do the Government propose to arrive at a decision in the matter ?

**Sir Aubrey Metcalfe :** As soon as possible.

**Mr. Mohan Lal Saksena :** Will it be before the end of this year ?

**Sir Aubrey Metcalfe :** That I cannot say.

**Mr. Lalchand Navalrai :** May I ask if this *Urs* fair still takes place in Ajmer ?

**Sir Aubrey Metcalfe :** I am afraid the Honourable gentleman has got on the wrong question.

**Mr. Lalchand Navalrai :** I am sorry.

#### THEFTS COMMITTED IN THE AJMER CITY.

1215. **\*Pandit Sri Krishna Dutta Paliwal :** (a) Will Government please enquire and place on the table of the House a statement regarding the thefts committed in the city of Ajmer, within the Ajmer Municipal area from April 1935 to August 1936, showing (i) the total number of thefts committed and reported to the Ajmer city police, (ii) the total value of property stolen, (iii) the total value of the stolen property recovered and restored to the owners, (iv) the names and addresses of the persons whose property was stolen, (v) the number of cases sent up by the Ajmer city police courts, and (vi) the number of cases in which prosecution finally succeeded in getting the accused convicted ?

(b) Is it a fact that a large number of burglaries and thefts committed within the Ajmer Municipal limits from April 1935 to August 1936 have not been traced out ?

(c) Is it a fact that the expenditure incurred by Government on the detection of crime and on investigation of criminal cases has been considerably greater in the Ajmer city from April, 1935 to August, 1936 than it has ever been before ?

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

**Sir Aubrey Metcalfe :** The information asked for has been called for and a reply will be given to the House in due course.

PROSECUTION OF PROSTITUTES IN AJMER.

1216. \*Pandit Sri Krishna Dutta Paliwal : (a) Is it a fact that on the recommendation of the Superintendent of Police and of the Commissioner, Ajmer-Merwara, prostitutes were prosecuted by the Municipal Committee in criminal courts, with the result that the area was cleared of them before 1935 ?

(b) Is it also a fact that on the recommendation of the police officers supported by the President of the Durgah Committee, Ajmer in 1935, a proposal was placed before the Municipal Committee, Ajmer, to recall the said prostitutes under the cover of "dancing girls" ?

(c) Is it also a fact that on account of public agitation the proposal referred to in part (b) above was not adopted by the Ajmer Municipal Committee ?

(d) Is it a fact that in 1935 a large number of prostitutes under the cover of "dancing girls" came to Ajmer and resided in the Durgah Bazar, Ajmer, during the Urs fair notwithstanding the continuation, on paper, of the resolution of the Municipal Committee prohibiting their residence in the said area ?

(e) Is it a fact that a prostitute named Shabbi who was being prosecuted by the Ajmer Municipal Committee at the time was virtually appointed by the Ajmer police authorities as Inspectress over the prostitutes referred to in part (d) above ?

(f) Is it a fact that the said Shabbi prepared and maintained a register of the said prostitutes on behalf of the police ?

(g) Will Government please place on the table of the House a list showing the names of the so-called dancing girls who visited Ajmer and stayed during the Urs fair of 1935 ?

(h) Will Government please place on the table of the House a statement comparing the number of cases instituted against prostitutes for disobedience of the Ajmer Municipal Committee resolution prohibiting their residence within certain specified areas in 1934 with the number of the said cases in the year 1935 ?

(i) Is it a fact that prostitutes resided in the Durgah Bazar, Ajmer, during the Urs fair of 1935 in violation of the resolution of the Ajmer Municipal Committee ? If so, why ?

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

Sir Aubrey Metcalfe : The information asked for has been called for and a reply will be given to the House in due course.

SUMMONING OF CANDIDATES FOR *Viva Voce* EXAMINATION BY THE PUBLIC SERVICE COMMISSION.

1217. \*Mr. Muhammad Nauman : Will Government be pleased to state :

(a) the criterion for summoning candidates for interview in *viva voce* by the Public Service Commission ;

(b) whether the orders regarding adjustment of vacancies by various communities apply *mutatis mutandis* to candidates called for interview ; and

- (c) if the reply to part (b) be in the negative, the reasons which led to this discriminatory treatment ?

**The Honourable Sir Henry Craik :** (a), (b) and (c). In selecting candidates for admission to examinations, the Public Service Commission follow their own Functions Rules and the rules governing the various examinations which they conduct, all of which are in the Library of the House.

In selecting candidates for interview to determine their fitness for appointment by selection the Public Service Commission follow the procedure laid down in their Functions Rules.

When the applicants for permission to appear at an examination are so numerous that it is necessary to reduce the number, the Public Service Commission select those who are *prima facie* most suitable, but in doing so take care that the members of the different communities are allowed to compete in such numbers as to give them a fair chance of securing their due share of vacancies.

#### STANDING COMMITTEE ON RICE OF THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH.

1218 **\*Mr. D. K. Lahiri Chaudhury :** (a) Will Government please state when the Standing Committee on Rice of the Imperial Council of Agricultural Research was constituted ?

(b) Did the Committee sit at all since its constitution ? If so how many times ?

(c) Do Government propose to call a meeting of the Committee in view of the fact that Burma is going to be separated early in 1937 and the question of self-sufficiency of India in respect of rice will arise ?

(d) Will Government please state if the Committee will be consulted at the time the Indo-British Trade Agreement and the matter of preferential duty on Indian rice will be taken into consideration ?

(e) Is it a fact that in reply to a question of Mr. Akhil Chandra Datta during the last Simla Session, Sir Girja Shankar Bajpai promised that a meeting of the Rice Standing Committee would be called as soon as it was constituted ? Why has not that promise been fulfilled yet ?

(f) When was the Standing Committee on Wheat constituted ? When and how many times the Wheat Committee met ?

(g) Are not the Government of India aware that scarcity of rice prevails in Bengal and some other provinces and the matter of sufficient rice production is a serious question which should properly be tackled ?

(h) Is it a fact that Rice Committee is to meet ordinarily twice a year ? If so, why did it not meet this year at all ?

**Sir Girja Shankar Bajpai :** (a) In February, 1936.

(b) No, but a technical sub-committee has met on many occasions.

(c) The first meeting of the Committee will be held in January, 1937.

(d) No.

(e) Presumably the Honourable Member is referring to the reply given to starred question No. 453 on the 18th September, 1935. It was merely stated that the Committee would be set up as soon as preliminary negotiations with the authorities concerned were complete; no undertaking to the effect mentioned by the Honourable Member was given.

(f) In February, 1936. The Committee met once in July, 1936.

(g) Government are aware that rice is imported into certain Provinces. The question of the production of rice in India will not be neglected.

(h) No. The Committee is to meet only when necessary and ordinarily in conjunction with meetings of the Advisory Board of the Imperial Council of Agricultural Research.

#### CHITTAGONG ARMOURY RAID PRISONERS IN THE ANDAMANS.

1219. \*Mr. D. K. Lahiri Chaudhury : (a) Will Government please state if it is a fact that the conduct of the Chittagong Armoury Raid prisoners in the Andamans is very satisfactory and even the officials speak highly of their conduct in the observance of jail discipline ?

(b) Is it a fact that some of the said prisoners are very young ? What is their age ?

(c) Do Government propose to consider the question of transferring these young and well behaved prisoners back to Bengal at an early date and releasing some of them before the completion of their term in view of their good conduct and young age ?

The Honourable Sir Henry Craik : (a) and (b). One of the convicts at the time of their conviction in March, 1932, was 15 : the ages of the rest ranged from 17 to 26. I have no particular information as to their behaviour in the Cellular Jail at Port Blair.

(c) The Government of India are not considering any proposal either to release them or to transfer them to Bengal.

#### LICENCES FOR GUNS TO CULTIVATORS IN FOREST AREAS IN CHHOTA NAGPUR AND BIHAR.

1220. \*Mr. Ram Narayan Singh : (a) Is it not one of the recommendations of the Royal Commission on Agriculture to liberally allow agricultural licences for guns to cultivators in forest areas to enable them to protect their fields from wild animals ?

(b) If the answer to part (a) be in the affirmative, do Government propose to enquire and state whether these recommendations are given effect to by the officials in Behar in general and in the division of the Chhota Nagpur in particular, and if so, to what extent ?

(c) What is the policy of Government towards the vast amount of fodder growing and being allowed to be destroyed and not used for fodder purposes in reserved forests every year throughout the country in general and in the Chhota Nagpur division in Behar in particular ?

Sir Girja Shankar Bajpai : (a) and (b). Attention of the Honourable Member is invited to the replies given to parts (b) and (c) respectively of his question No. 1660 answered in the Legislative

Assembly on the 8th April, 1935. The Government of India have no reason to assume that the Local Government and their officers are not giving effect to the recommendations of the Royal Commission on Agriculture on the subject. If the Honourable Member can give me instances to the contrary I shall bring them to the notice of the Government of Bihar.

(c) If the Honourable Member's suggestion is that fodder in Government Reserved Forests in Bihar suffers from the depredations of wild animals I would say that the Government of India have no information to that effect but will draw the attention of the Local Government to it if the Honourable Member so desires.

**VISIT OF SIR MUHAMMAD YAMIN KHAN AND RAIZADA HANS RAJ TO THE ANDAMANS.**

1221. \***Mr. Ram Narayan Singh** : (a) Is it a fact that Sir Muhammad Yamin Khan and Raizada Hans Raj, Members of this House, have been asked to visit the Andamans at their own cost ?

(b) Will they submit to Government any report about the conditions of the prisoners there and, if so, will that report be made available to all the other Members of this House ?

**The Honourable Sir Henry Craik** : (a) The two gentlemen will receive the usual allowances.

(b) They have not been asked to submit any report.

**Mr. Ram Narayan Singh** : If they are not going to submit a report, what was the use of sending them to the Andamans ?

**Prof. N. G. Ranga** : Is it for the sake of providing them with a pleasure trip that they are sent there ? Why have they not been asked to submit a report ?

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member can draw his own inference.

**Mr. M. Ananthasayanam Ayyangar** : Are we not entitled to ask the Government why they should not submit a report to the House ? They have gone at Government expense, and therefore they should submit a report.

**Mr. President** (The Honourable Sir Abdur Rahim) : Order, Order. What I said was not with regard to the report. The question was put whether they have gone on a pleasure trip or not and this, I say, is a mere criticism.

**Mr. M. Ananthasayanam Ayyangar** : Will you kindly ask the Honourable the Home Member to answer my question as to why they are not asked to submit a report ?

**Mr. President** (The Honourable Sir Abdur Rahim) : That is a proper question.

**The Honourable Sir Henry Craik** : I have explained that they have been asked to go to the Andamans in pursuance of an undertaking I gave. I have told them that I do not expect them to submit a formal report, but if they wish to do so, they can.

**Prof. N. G. Ranga** : In that case do Government consider the advisability of publishing any report that they may care to submit to them ?

**The Honourable Sir Henry Craik** : I do not know yet whether they are going to submit a report.

**Mr. Lalchand Navalrai** : May I ask the Honourable Member if the Government have asked them to submit a confidential report ?

**The Honourable Sir Henry Craik** : No.

**Prof. N. G. Ranga** : What was the nature of the undertaking that the Government gave to this House ? Is it that these people should be sent there in order to satisfy themselves about the conditions of the prisoners there and then come back and inform the House or not ?

**The Honourable Sir Henry Craik** : No, Sir. I gave no undertaking to this House. I only gave an undertaking in an interview that I had with certain journalists.

**Dr. Ziauddin Ahmad** : Will not these gentlemen for their own advertisement give to the newspaper correspondents the report on their visit on their arrival or in other words the correspondent will extract report from them

(No answer.)

**Mr. V. V. Giri** : May I ask if Diwan Bahadur Narayan Swami Chetty submitted a report when he came from the Andamans ?

**The Honourable Sir Henry Craik** : I cannot precisely remember but I think he did.

**Prof. N. G. Ranga** : May I ask if the Honourable Member himself submitted any report or any observations to the Governor General in Council on his return from the Andamans ?

**The Honourable Sir Henry Craik** : No, Sir. I am not very good at submitting reports.

**Mr. Muhammad Azhar Ali** : Are these gentlemen expected to give any information on their conclusions to the Honourable the Home Member ?

**The Honourable Sir Henry Craik** : I have told them that I would be glad to hear anything that they may have to say.

**Mr. Mohan Lal Saksena** : Is it a fact when a deputation was sent to inquire into the conditions of the Moplah prisoners in the Andamans, they did submit a report and it was published by the Government of India ?

**Mr. President** (The Honourable Sir Abdur Rahim) : That is a different matter.

**Mr. Ram Narain Singh** : Will Government consider the advisability of advising these gentlemen now to submit a report to them ?

**The Honourable Sir Henry Craik** : No, Sir. I think it is desirable that they should have an absolutely free hand to say as much or as little as they like.

**RESOLUTIONS PASSED BY THE CORDITE FACTORY LABOUR UNION,  
ARUVANKADU.**

1222. \***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether they have received copies of the resolutions passed by the Cordite Factory Labour Union, Aruvankadu, at their tenth Annual Conference, held on 1st December, 1935 ;
- (b) the reasons why they have refused to make an equal contribution to the Provident Fund, and whether they propose to reconsider their decision and order an equal contribution being made ;
- (c) the reasons why they have refused to introduce a scheme of gratuity for workers in that Factory, and whether they propose to consider the necessity of introducing a scheme of gratuity ;
- (d) whether they propose to make an early announcement on this matter, and if not, why not ; and
- (e) whether they are considering, in the alternative, granting to men, who retire after the required period of service, a pension as in the case of employees of other Government Departments, and if not, why not ?

**Mr. G. R. F. Tottenham** : (a) Yes.

(b) I would refer the Honourable Member to the answers I gave to the supplementary questions to starred question No. 508 on the 17th February, 1936.

(c) and (d). A scheme for the grant of gratuities to workmen and others on the temporary and extra temporary establishments of the Ordnance and Clothing Factories is at present under consideration.

(e) Does not arise.

**HARDSHIP AND INCONVENIENCE OF THE TRAVELLING PUBLIC ON THE DISTRICT  
RAILWAY BRANCH LINE RUNNING FROM SILIGURI TO KISHUNGUNJ.**

1223. \***Maulvi Badi-uz-Zaman** : (i) Are Government aware that :

- (a) the District Railway Branch line running from Siliguri to Kishungunj and *vice versa* has not sufficient number of carriages for the accommodation of passengers, with the result that the trains get packed up ;
- (b) there are open trucks attached to the trains to carry passengers, and it is really unsafe to travel in them ;
- (c) there is no latrine or privy in the trains excepting one in the first class ;
- (d) there is no arrangement for the supply of water ;
- (e) the carriages are of old and primitive type, having too narrow benches and most uncomfortable seats ; and
- (f) the trains are generally late both in arrival and departure suiting the convenience of the railway employees ?



(ii) Do Government propose to take such steps as they deem necessary to remove the hardship and inconvenience of the travelling public on this line ?

**The Honourable Sir Muhammad Zafrullah Khan :** (i) The General Manager, Darjeeling-Himalayan Railway states :

- (a) the accommodation provided is sufficient for normal traffic and extra carriages are attached when additional traffic is anticipated. Overcrowding occasionally occurs when a considerably larger number of passengers than has been expected offers ;
- (b) that open trucks are not attached to trains for the carriage of passengers ;
- (c) that lavatories have not been provided in all carriages since all trains stop at every station and halts of sufficient duration are provided at frequent intervals ;
- (d) that there are arrangements for the supply of drinking water to passengers on request ;
- (e) that the carriages are of the standard type used throughout the Darjeeling-Himalayan Railway System, and they have not had any complaints on this point hitherto ;
- (f) that the trains are not detained to suit the convenience of railway employees. Owing to the limited train service, delays are sometimes caused in shunting goods vehicles when traffic is brisk and on market days, for the convenience of passengers.

(ii) I am bringing the Honourable Member's question and my reply to the notice of the Managing Agents of the Darjeeling-Himalayan Railway Company for such action as they may consider necessary.

**Mr. M. Ananthasayanam Ayyangar :** May I know whether there will be no questions tomorrow and the day after ?

**Mr. President** (The Honourable Sir Abdur Rahim) : No.

**Mr. Mohan Lal Saksena :** We have finished the questions today, because we have not got the other lists. I would request the Chair to give extra time for questions on the next day so that we may be able to finish the remaining questions. I understand there are yet many questions to be answered.

**Mr. President** (The Honourable Sir Abdur Rahim) : There are no more questions in my list.

**Mr. Mohan Lal Saksena :** I have myself given notice of about 50 questions and I expected them to be on the list at least.

**Mr. President** (The Honourable Sir Abdur Rahim) : They are not yet ready. I may however inform the House that there are so many questions which are inadmissible under the Rules and the Standing Orders. The office and I have got to go through all of them and also to examine them and thus a lot of time is taken up.

THE (TASIKU) MEMORANDUM TO THE EDIT

**Mr. M. Ananthasayanam Ayyangar :** Some of my questions were disallowed and I have received a notice to that effect. I had thought that they were absolutely relevant and ought to have been admitted but, of course, there can be a difference of opinion.

**Mr. President (The Honourable Sir Abdur Rahim) :** I may mention for the information of the House that questions are placed before me after having been examined by the office. I go through them, and pass them, they are then sent to the Departments concerned, if I and if they have any objection to the admissibility of a question, they make a representation to me. If I find that the representation is not well-founded, I confirm the original order. But, if I find that there is force in the representation, I disallow the question. When I disallow a question, the Honourable Member who put the question is informed accordingly, and the Honourable Member can, if he so likes, make a representation to the office or to me. In that case I re-consider the question and if I find that my previous order was wrong, I alter my decision. If, on the other hand, I find that my previous order was correct, I confirm it. I may also mention in this connection that some of the representations that have been made to me have been worded in unjustifiable language and I have warned the Members about it more than once.

#### STATEMENT LAID ON THE TABLE.

*Information promised in reply to starred question No. 1087, asked by Pandit Lakshmi Kanta Maitra on the 10th March, 1936.*

#### SCHOOLS FOR THE EDUCATION OF THE GIRLS OF EUROPEAN AND ANGLO-INDIAN EMPLOYEES MAINTAINED BY THE BENGAL AND NORTH WESTERN RAILWAY.

(a) and (c). No separate schools for the education of the girls of European and Anglo-Indian employees are maintained by the Bengal and North Western Railway, but girls are admitted in the schools maintained for boys.

(b) Does not arise.

#### THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 51, ETC.)

**The Honourable Sir Henry Craik (Home Member) :** Sir, I beg to move :

“ That the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes (*Amendment of section 51, etc.*), as reported by the Select Committee, be taken into consideration.”

Sir, this Bill has been before the Assembly for a considerable time. It was introduced in February, 1935, and the motion for circulation was carried in that month after a lengthy debate. There was a further reference to Select Committee in September, 1935, and the Select Committee actually sat in March of this year. But unfortunately, owing to the demands of other business it was not possible to consider this Bill after the Select Committee had reported during the last Delhi Session, and I was at one time afraid that this Bill would have to be among the

measures to be jettisoned during the present Session. Fortunately, I am glad to say that we have got this opportunity of considering it, and I hope passing it, today.

Sir, the principles of the Bill have been very fully discussed in this House, first during the motion for circulation and then in September last year when I moved for reference to a Select Committee. It will, therefore, I think be agreed that it is not necessary for me to discuss the general principles of the Bill again. I take it that the main principle—which is that honest debtors, that is to say, debtors who are neither dishonest nor recalcitrant, are to be saved from imprisonment for debt—I take it that that principle has the general approval of the House and what we are now considering is the final form of the Bill. I need do little more than refer to the report of the Select Committee, in which the changes made by the Select Committee have been explained.

The main changes of substance are in clause 2. The first change is the insertion of the words "where the decree is for the payment of money". That insertion has been made merely to stop a gap inadvertently left in the Bill as drafted, because it is common ground that the decrees we are concerned with are decrees for the payment of money and not such decrees as for example that for the specific performance of a contract, or to take another example, for the restitution of conjugal rights. The second change in clause 2 is one that has been made in the interests of debtors. One of the grounds which the Bill provides for a debtor being committed to prison is that he had, after the commencement of the suit, made away with his property or any part of it. As originally worded, the Bill would have permitted the imprisonment of a perfectly honest debtor because he might, for some quite unexceptionable reason, have had occasion to transfer part of his property, and that transfer might have had the effect, though not the object, of defeating or obstructing the execution of the decree. The intention now is to deprive only debtors guilty of bad faith or dishonesty of the protection of the Bill, so that we have put in the word "dishonestly" in sub-clause (ii) of clause (a) of the proviso to clause 2 of the Bill. The third change that we have made in this clause is to permit the Court to order imprisonment when the debt is for a sum for which the debtor was responsible in a fiduciary capacity. This phrase we have taken from rule 40 of Order XXI of the Code of Civil Procedure. As the law stands at present, the Court, before ordering imprisonment, may consider various matters. They will be found detailed in that rule 40 of Order XXI;—one of them is where the debt is for a sum for which the debtor was liable in any fiduciary capacity, and another matter is his behaviour in that capacity. We see no reason to protect the debtor who has committed a breach of trust, and therefore we have added this ground as a justification for sending a debtor to prison. I think that is obviously in accordance with equity.

The fourth change that we have made in clause 2 of the Bill is that we have made two changes in the Explanation. The Explanation as now drafted says that when the Court is considering whether the debtor has means to pay the sum due under a decree, it should "leave out of account any property which by or under any law or custom having the force of law for the time being in force is exempt from attachment in execution of the decree". We added those words, "any custom having the force

[Sir Henry Craik.]

of law", because we know that there are such customs, for example in the Punjab, and we have substituted the words "exempt from attachment" for the words "exempt from sale", because the criterion for deciding whether the property of a debtor is to be made available for meeting a decree-debt should be its liability to attachment rather than its liability to be sold. Attachment of course is the first stage, and sale is the second.

The rest of the Bill has been practically unchanged in Select Committee. The only other material change I need mention is that in clause 4 we have substituted "fifteen days" for "ten days" as the period of grace which a Court can allow before transferring a debtor from the custody of an officer of the Court to a civil jail.

So much, Sir, for the Bill as it has emerged from the Select Committee. The previous debates in this House showed that we must expect two kinds of criticism—one which alleges that the Bill goes too far in the way of protecting the debtor, and the other which alleges that it does not go far enough; and you will see from the two minutes of dissent that one of them—the minute signed by the Honourable Member from Sind, Mr. Lalchand Navalrai—is from the side of those who think that we are going too far, whereas the other, signed by Captain Lal Chand and Mr. Ghiasuddin, is from the side of those who think that it does not go far enough. The first Honourable Member, my Honourable friend, Mr. Lalchand Navalrai, wants to have the Bill restricted to very narrow limits, but I believe the general sense of the House to be against that. We want the Bill to apply to all debtors—never mind whether they are industrial workers, or agriculturists, or salaried servants, or anyone else. The other two gentlemen, Captain Lal Chand and Mr. Ghiasuddin, want what they call only a small alteration in clause 3. They suggest that after the word 'affidavit' that is to say after the words 'if the court is satisfied, by affidavit', there should be introduced the words 'and other reliable evidence'. I do not think that small alteration is necessary. I do not share their fears that the present wording of the Bill will leave open the door to the unscrupulous moneylender to put in a false affidavit. We can, I think, trust the Courts not to be misled by such allegations as the unscrupulous moneylender may make.

I have only to say in conclusion that I believe this Bill is a reasonable compromise and that it will do a great deal to protect the honest debtor, that is the debtor who genuinely wants to pay his debts but cannot, from the misery and degradation which he has at present to undergo by being sent to jail. I trust the House will agree to pass this measure in its present form. (Applause.)

**Mr. President** (The Honourable Sir Abdur Rahim) : Motion moved :

"That the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes (*Amendment of section 51, etc.*), as reported by the Select Committee, be taken into consideration."

**Prof. N. G. Ranga** (Guntur cum Nellore : Non-Muhammadan Rural) : I am glad that at last this Bill has come back to this House in this shape. I was even afraid that it might not be brought up again during this Session. I do not know whom to thank for this small mercy. It cannot be the Government because if really the Government had felt so keenly

about this Bill as they had felt about so many other Bills which really mean so much less to the masses of this country than this Bill, they would certainly have brought it up in the last Delhi session and got it passed last March alone. Sir, this Bill should have been passed long long ago at least in the first session of the Assembly, 1935, February, but more by an accident than by an intention it had to be sent into circulation. We were hoping that as soon as it came back from circulation, it would be passed in the Simla session of 1935. We were disappointed again in the last winter session and even in this session almost by a fluke of chance it has escaped the guillotine of adjournment of this House and has happily survived. It is rather unfortunate that Government even when they want to do a good thing do not really know how to do it and do not know really when to do it.

**Mr. K. Ahmed** (Rajshahi Division : Muhammadan Rural) : Why don't you teach the Government ?

**Prof. N. G. Ranga** : I will leave that work to be done by my Honourable friend, Mr. K. Ahmed, who, I hope, will also join us in supporting this Bill and getting it passed, so that the agriculturists and others in the country would be benefited. But, Sir, my sincere view is that the Bill does not go half as far as it should have gone. It is not because Government do not know the real desires and needs of the masses. They were forewarned about them even in the very first session of this Assembly in 1935 and yet they have stuck to their own point of view and like the Bourbons of old they refuse to learn anything whatsoever and they refuse to unlearn anything. They have contemptuously dismissed all the suggestions that have been made to them on the mere plea that these people are amateurs and cannot be expected to know as much as they themselves. The only consolation that they seem to have is this that there are some people who think that this Bill goes too far and therefore they must be really in the right because they do not satisfy those of us who are supposed to be extremists. This is a queer point of view to take. As I have said once before, this country has been faced with economic crisis, the peasants have been asking for special emergency assistance and legislation from Government, but they have been denied that assistance. Then this little bit of a Bill they proposed and yet they have delayed it for two years and now they come forward with this by saying that they do not wish to go as far as we people want them to go merely because there are some people who think that it has gone too far. Even with all that, we find there are two Honourable Members of the Select Committee who have thought that it has not gone far enough, as against one Honourable Member of the Select Committee who thinks it has gone too far. Even on that ground, the Government should have chosen to accept their very moderate amendment for the inclusion of these few words 'and other reliable evidence'. Even that, the Government do not propose to do. They could have at least paused a little before they dismissed those suggestions because after all one of them is one of their own beloved nominated Member and his advice at least should have been trusted by them and yet when it suits them they are prepared to dismiss the advice given by one of their nominated Members however trusted he may be in all other respects. I am very dissatisfied with the Select Committee. There are on that Select Committee some Honourable Members belonging to our Group and I cannot understand how the Select Committee became so blind to the legislation that exists on the Statute-books of the various

[Prof. N. G. Ranga.]

Provincial Governments and have not seen reason for trying to exempt the honest agriculturist from any fear of being sent to jail for civil debts. There is the Deccan Agriculturist Relief Act which prevents any peasant from being sent to jail for a civil debt. My Honourable friend, Mr. Gadgil, who will follow me will provide the House with details which could have guided the Select Committee in helping the peasants. But they seem to have become blind to all ideas of progress, all ideas of helping the masses.

Then, there is what is known as the Punjab Land Alienation Act. Even that would have given them an idea as to how and to what extent the peasants could be helped even through the means of a Bill like this. But the Members of the Select Committee have become blind again to all promptings of progress and all desires of our people. It may be said that this Bill goes too far, that it seeks to help the debtors as against the creditors and that it seeks to restrict your credit and therefore in fact it is not an unmixed blessing and that it goes even against the very people who are supposed to be helped. But I beg to submit that that is a wrong point of view to take. If there is anything wrong at all with our peasants and masses, it is that they are unnecessarily loaded with too much credit, that it is no good for them at all and our own moneylenders, bankers, co-operative banks and all other institutions which are interested in carrying on the business of moneylending are not a little to blame in their anxiety to force money on the agriculturists, almost in an unholy rush and thus they force the peasants to fall into the clutches of the lawyers and the courts. Therefore, Sir, I express my very deep disappointment at the Bill because of the delay on the part of the Government in trying to pass this Bill into an Act, and my great disappointment in the failure of the Government in not proposing to go a little further than what this Bill seeks to do and my disappointment also at the failure of the Government in not trying to consult the peasants themselves as to the manner in which this Bill could be amended in order to help them more effectively than this Bill seeks to do. Sir, I support the Bill.

**Mr. Lalchand Navalrai** (Sind : Non-Muhammadan Rural) : Sir, I am not surprised at what my Honourable friend Prof. Ranga said that this Bill should have gone still further. I know his angle of vision is always in one direction and that is with regard to the peasants. But I can tell him that with regard to the peasants he should have no grievance at all because most of the provincial Governments have actually enacted laws to give relief to the agriculturists in respect of arrest and imprisonment. In the Bombay Presidency there is the Deccan Relief Act. Section 21 of that Act provides that no agriculturist will be sent to jail under a money decree. And agriculturist is defined as a person who works as an agriculturist, i.e., who works with a plough, or whose income mostly comes from agriculture. Therefore he can have no grievance. On the contrary my humble submission would be that this Bill is too wide. Now, I must say that I am not as interested in this business as Prof. Ranga. I am neither a creditor nor a debtor and I can take an impartial view of this and consider the question from both points of view. Sir, it should not be considered that I have no sympathy with the poor debtor but I must say that I have not too much of zeal or too much of sympathy for him which will be misplaced. If you look at the present Bill as it has emerged from the Select Committee you will find that it goes far

beyond the original object of amending section 51 of the Civil Procedure Code. That section provides that one of the methods of recovering debts from the judgment-debtor is by arrest and detention in prison. Now that section is being amended by putting a proviso which says that for a money decree there will be exemption of the judgment-debtor from arrest. And the only remedy left to the creditor to obtain his money from the judgment-debtor is now being taken away. In their zeal for the debtor most of the provincial Governments have made laws which have deprived the creditor of their remedy against the judgment-debtor, like the Deccan Relief Act in the Bombay Presidency ; and I am sure there are such Acts in some other provinces also. The creditors have given money and all of them are not Shylocks or dishonest people, but rather the contrary I think. But what I submit is that the provincial Governments have already given such protection ; and the protection having been given we should not be blind to the fact that they have already curtailed the remedies of the creditor to recover his judgment debt. The House knows how many difficulties there are in the way of the creditor to go to court and recover his money. The debtor will come forward and say that he has made payments from time to time. The case will be adjourned to find out whether he has made payments or not and in the end he will not be able to prove it and after two or three years the matter will be decided and there will be a decree for the creditor. What happens then ? If a decree is made that decree becomes only a paper decree.

**An Honourable Member :** Is not that a dishonest decree ?

**Mr. Lalchand Navalrai :** It is a most honest decree, because the man gave money at a time of need and when he goes to recover it false allegations and false pleas are raised in courts. Those who are pleaders and advocates know how these things happen. However, I do not say that all debtors are dishonest, but generally a debtor is never willing to pay his dues, and it is only exceptional people who pay. Every such debtor would like to avoid payment and yet these people are called honest debtors.

**An Honourable Member :** For one rupee he has to pay one hundred.

**Mr. Lalchand Navalrai :** Those days are gone. It is only a bogey now that they have to pay so much above the decretal amount. Now it comes to this that when he has to get a decree under the Deccan Relief Act and such other Acts the Court has to go into the history of the transaction. If he has paid one thousand rupees and the debt is for two or three years, the court ordinarily would not be allowed to go into that. But what actually happens is that the courts go into them under the above Acts and find out whether which items have actually been paid or not, even though there is an acknowledgment that such amounts are due. The whole thing is reopened and gone into and then some decree is made. But it is after the decree is made that difficulties arise. What are the difficulties ? There is an Act which is called the Encumbered Estates Act. If the debtor has a small holding for which he pays an assessment of about Rs. 300, he can come under that Act and the whole debt will one day be washed out. There will be difficulties and no decree will be effectively realized because it then lies with the manager an executive officer to give relief or not. It has been provided in those Acts that an agriculturist will not go to jail. But apart from that, is there any sure remedy against property ? So far as the agriculturist is concerned, his

[Mr. Lalchand Navalrai.]

property will not be attached and sold except when it is mortgaged. That is a difficulty. The creditor has got no relief against the property and now this Act provides with some limitation that in all money decrees for a lesser or greater amount, the man must not be sent to jail. The history of this legislation is this : the matter was initiated by the Royal Commission on Labour. That commission went into the question of the workers and found that some relief should be given to them, to the workers who were poor, and they suggested that a Bill should be brought in for the workers. In that Bill those whose wages or income was less than Rs. 100 were given relief from going to jail. The Royal Commission on Labour did not go into the question of the agriculturists and others, but I say that the agriculturists have been provided for by the Deccan Act and such other Acts. These are the two classes of persons who are mostly debtors. The Government of India should therefore have restricted the scope of this Bill to the workers who get less than Rs. 100. Instead of that, what did they do ? This will show the zeal with which the Government was putting forward this Bill. The Government seems to have been led away by some views of the provincial Governments and they have come to this stage of presenting such an extensive Bill. The Bill that was brought in originally was too wide ; Under section 51 they put in a proviso that execution by detention of any person shall not be ordered unless after giving the judgment debtor an opportunity of showing cause. But in the Select Committee they came down a little, though I say they should have come down still further to relieve only those people who were really poor, or rather the workers only who were poor. If they wanted to protect others also, they should have provided that any man who earns below Rs. 50 or Rs. 100 : should be saved from jail and not all in " all decrees of money ". I know that the Select Committee by a majority recommend that the Bill be passed ; but I think on cool consideration you will see that to exempt all judgment-debtors of money decrees from going to jail, is very hard and I hope the House will not perfunctorily dispose of the matter, saying that there is very little time left and the Bill should be passed hurriedly. If they consider the matter coolly, they will see the Bill is not fair to both sides. I would have no objection if I considered it fair. I do not say that the debtor should be harassed, but there should be no unfairness to the creditors.....

**Mr. K. Ahmed :** Why do you not write a minute of dissent then ?

**Mr. Lalchand Navalrai :** My Honourable friend asks why I have not written a minute of dissent : I have.....

**An Honourable Member :** Do not take any notice of him.

**Mr. Lalchand Navalrai :** .....and this is what I said.....

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member need not read it : it is there.

**Mr. Lalchand Navalrai :** I will just say what it means. My first complaint is that all this enthusiasm is for the debtor alone. There should be some consideration for the creditor in all fairness. Next I say that the Bill should be restricted to workers and should not be so wide as it is. Another thing is that the burden of proof is being shifted on by this Bill to the creditor and that, I think, is putting the cart before the horse and is doing a thing which is most unwarranted and against the principles



of the law of evidence. Again, there is discretion, according to the present law, to the court to issue notice to a man to come and show cause. That power of the court is also being restricted too much. I submit the House has got to consider all these points. I have given notice of certain amendments and when they are taken up I will say something more. At present I will only submit that the House should not be carried away only by feelings for the debtor. I am not an enemy of debtors and on the contrary I think they must be given some relief, but not so much, at the cost of the creditor.

**Mr. M. S. Aney** (Berar Representative) : Sir, I am glad that the Bill

12 NOON. has come to the stage of consideration in this session. As my friend, Prof. Ranga, has remarked, the measure was overdue and most of us would have welcomed a Bill even in the last session and would have given such assistance as lies within our power to get it passed even then.

On a measure like this, one would not be surprised if there is some little difference of opinion. But when we read all the provisions of the Bill carefully, I think the Select Committee has taken care not to allow the measure to be unduly favourable to creditors as against the debtors. After all what does the creditor intend to do? The creditor's real remedy or object when he passes the money is to get the money back and he generally relies not upon the man to whom he advances money but upon the little property the man holds : he expects to get his money repaid out of what the man is able to make out of his property or his earning in other ways ; and if this Bill does not altogether take away the remedy of the creditor from dealing with the debtor when he wants to deal unfairly with his property with a view to defraud the creditor, then I believe the Select Committee has taken all the precautions it ought to in a matter of this nature, and, instead of reading out the provisions, I have carefully read the report and I say that sufficient precaution has been taken. As regards the question of burden of proof, it is rather difficult to say but one thing I can say. A man who wants to take an extraordinary remedy ought to be the person to show if there is any need for him to take that extraordinary remedy. To rob a man of his liberty, because he is unable to pay the debt which he owes to me is in itself an extraordinary step. You are not dealing in an ordinary way at all. You don't want that man to be in a position to pay you at all for some time. That is the situation one desires to create by applying for arrest and detention. It is for an extraordinary remedy that a creditor goes to court with an application and when he goes for an extraordinary remedy like that I think it is reasonable that he should be prepared to give to the court a proper reason for demanding an extraordinary step like that. When the extraordinary nature of the situation is realised, one would not be surprised as to how and where the burden of proof should lie and in the Bill it has been properly placed on the creditor. He goes with an application of that kind. These are the main things. It is not a question of angle of vision. It is a question of looking at the thing from a proper point of view and therefore it is that we find that the Bill emphasizes the fact that certain things the creditor must prove before he can succeed in getting an order of arrest or detention. I think the Bill has done the right thing. The House should of course give careful consideration to all the amendments that will be put before the House but after all it

[Mr. M. S. Aney.]

should see the desirability of having a salutary measure like that passed at this stage and not unnecessarily prolong the discussion. I am sure that the House feels grateful to the Honourable Member for having expedited the process and brought the Bill for consideration in this session.

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions : Muhammadan Rural) : It has been fully stated here that this Bill was long overdue and that the Select Committee has done the right thing in supporting the provisions of this Bill. For a long time creditors have taken advantage of the illiteracy of the masses and sometimes also of the little educated people, although they belonged to the middle classes. This Bill only protects honest debtors. It does not say a word that it will protect dishonest debtors. The only thing that I am surprised about is that this Bill was not published in the United Provinces in the language that obtains in that province, namely, Urdu, but it was published in English. This is the only complaint that I have to place before this Honourable House. These small matters go a great deal to injure the rights of the public and I hope that in future very great care will be taken to publish these things in the vernacular of the province in which they are published. I find that in Bombay it was published in Urdu but that in the United Provinces it was published in English. However, it is only by way of suggestion that I have made this remark. Now, Sir, it has been my own experience in my practice as a lawyer that advantage was taken by creditors in every case practically. They all went to court, mostly with practically false affidavits—that the judgment-debtor was about to leave the station or he was about to run away and specially in the Small Cause Courts, they have always put in such affidavits. This Bill only relates to money decrees and when my friend, Mr. Navalrai, says that no pound of flesh is asked to be taken from the debtors, I would say that only detention in a civil prison is a sort of pound of flesh. Sir, I need not say more on the subject as I find that much has been said and the Honourable the Home Member has explained that it is a very salutary Bill. So, I support it.

**Mr. K. Ahmed** : Mr. President, I will not take more than two minutes. I join my friend, Mr. Aney. He congratulated the Government on bringing in this Bill. I thank him, because he is also a part and parcel of that Heavenly created body that has got its birth by nature. It was opposed by my friend, Prof. Ranga, who has criticised the Bill in such a way that there was no justification for him to attack the Government, and finally he dropped down and supported the Bill and became hopeless. He poses to be a great benefactor and representative of the peasants. He quoted a piece of legislation, which is called the Deccan Agriculturists Relief Act of 1869 which was passed before my friend was born, and still the agriculturists in that part of the country are in the same condition, and my friend, since he has come to this House, has reconnoitred and gone so far as to find out some loopholes in the Government saying that this Bill has been on the anvil since 1935 and the Government have done nothing since then. Then, I come to Mr. Azhar Ali.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member has exceeded his own time limit.

**Mr. K. Ahmed :** My friend, Mr. Navalrai, poses to be a great benefactor of the money-lender. It seems to me that he is a practitioner in the civil court, and as if he represents the money-lenders alone who are his clients. He said that the money-lenders form 99 per cent. of the constituency he has the honour to represent, and most of them are not dishonest. He has been a member of the Select Committee as well, and, because the majority of the members of the Committee did not agree with him, he has written a minute of dissent which is not a minute of dissent at all on the subject he is now speaking. I cannot congratulate my friend, Mr. Azhar Ali, because he has shown his weakness, in so far as he said that his Province did not follow this piece of beneficial legislation for want of circulation in the vernacular which would equally benefit the constituency that he comes from.

**Mr. Muhammad Azhar Ali :** I did not say that it did not follow it.

**Mr. K. Ahmed :** It is not translated in the vernacular, in Urdu, he said. Where there is a Province called Bengal, or there is a Province called the United Provinces, where the Bill was not translated in the vernacular before the circulation that may be so written in the Bill, and that it was not fully translated. But there are vernacular papers which translated the Bill as published in the Provincial Gazette. Therefore, there is no justification which can lie in the mouth of my friend for criticizing this Bill, instead of thanking the Government for moving such a Bill before the House.

Now, Sir, in Bengal, we have got the Indebtedness of the Agriculturists' Relief Act passed in the year 1934. There, Sir, the Bill goes beyond the scope which has been suggested by my friend, Mr. Lalchand Navalrai. The Royal Commission on Labour suggested certain criteria and we said that in the case of labourer whose income is less than Rs. 100, he cannot be convicted and imprisoned, and, therefore, there is no scope for my friend, Mr. Lalchand Navalrai, diverting his attention and accusing the Government that this Bill has simply been considered from the point of view that was taken by the Royal Commission on Labour only. Under these circumstances, Sir, I have the honour to support the Bill and I welcome it. I have certain points of criticism to offer with regard to the amendments of which notice has been given and shall wait till they are taken up.

**Mr. President** (The Honourable Sir Abdur Rahim) : The amendments are not now before the House.

**Mr. K. Ahmed :** Very well, Sir, when that stage comes, I shall offer my criticisms.

**Several Honourable Members :** The question may now be put.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes (*Amendment of section 51, etc.*), as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 2 stand part of the Bill.”

**Mr. Lalchand Navalrai :** Sir, I move :

“ That in clause 2 of the Bill, in the proposed proviso to section 51, after the word ‘ Provided ’, the words ‘ in case of industrial workers in receipt of wages less than rupees one hundred ’ be inserted.”

Sir, I will not be long on this amendment, as I know that as yet I have not been able to induce the House or most of the Members to see that there is a great weighing down of the scale on one side. I maintain that the scope of the Bill is too wide. I fear that the Bill which has now been made to apply in the case of money decrees to any extent of any amount, has now been rendered too wide in its scope. Now, Sir, it has been said as I find in the Select Committee's Report that some of the Provincial Governments have expressed the opinion that the Bill should apply to all the debtors but I find from the Opinions in my hand that the opinion of the Bar Associations and several other Associations is to the contrary. Therefore, it is only because of the wish of some of the Government officers who have wished it so that this Bill has been taken to that stage. Now, I find that in Paper No. 1 at page 25 the British Indian Association, Calcutta, said this :

“ The Bill under review, on the other hand, applies to all judgment-debtors and the protection is not restricted to small debtors only. On analysing the Bill it is found that judgment-debtors are favoured at the cost of judgment-creditors. This is a position with which our Committee are not in agreement. Creditors lend money and nothing should be done to encourage non-payment of debts unless it is for the public good. That is the fundamental principle which guides all canons of lending and borrowing. The Bill contemplates a situation which does not seek to do justice to credit-money. Our Committee base their objections to the Bill on, amongst others, the following grounds.....”

And then they have given the grounds, to show that already rule 40 of Order XXI of the Code of Civil Procedure provides a remedy which is sufficient. Now I submit that the scope of the Bill is very wide, and Government should restrict it by accepting this amendment. I have already said, Sir, that there are provisions for the agriculturists in the Provinces. Then, I would say that the Howrah Bar Association also has this opinion :

“ My Association entirely disapproves the principle underlying the Bill and the forms in which relief is sought to be given to a certain class of people. In the present state of society the enactment is uncalled for and unwarranted. The term ‘ honest debtors of all classes ’ is a very bold but peculiarly unhappy expression. Debtors have very little reputation of being honest as a class. Circumstances tend to make them more dishonest and degraded than any other class of people. To make them appear more sinned against than sinning would be giving a premium to repudiation of debts. The abuse of the provisions of the Insolvency Act of 1907 by debtors led to the enactment of the more stringent measure of 1920. My Association is of opinion that the provisions of the present Code of Civil Procedure and Insolvency Acts are ample safeguards for relieving distressed debtors.”

Now, Sir, I would submit that the Government's strong point is that this Bill is being amended in order to help the honest debtor. Now I would ask—what is an honest debtor ? If really there is an honest debtor and he is not able to pay, well an honest debtor means one who surrenders all he has. (Laughter.) (*An Honourable Member* : “ To one creditor ! ”) He must place all that he has before his creditors. For that, there is already a provision ; there is the Insolvency Act. If a man who is not able to pay his debt goes to the Insolvency Court, provision will be made for his maintenance and that of others also, of course, and that remedy is already in existence. Therefore, I submit that to have the scope of the

Bill so wide is very wrong and I would ask the House to reconsider its position and support my amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 2 of the Bill, in the proposed proviso to section 51, after the word ‘ Provided ’, the words ‘ in case of industrial workers in receipt of wages less than rupees one hundred ’ be inserted.”

**The Honourable Sir Henry Craik** : Sir, I regret I cannot possibly accept this amendment. The principle of the Bill is to give protection to the honest debtor of whatever class—whether he is an industrial worker, or a clerk, or an agriculturist, or whatever he is. The suggestion that the Bill should be limited to industrial workers in receipt of wages of less than Rs. 100 is opposed to the whole spirit and principle of the Bill, and I trust that the House will reject this motion.

**Some Honourable Members** : The question may now be put.

**Mr. M. Ananthasayanam Ayyangar** (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, I oppose the amendment moved by my Honourable friend, Mr. Lalchand Navalrai. I am rather surprised that my Honourable friend seems to have a different kind of experience than the one which we have in the Madras Presidency. He is fundamentally wrong in thinking that each province has made a provision for the relief of agricultural indebtedness or debtors who are agriculturists. In my province of Madras there is no provision exempting an agriculturist from arrest or detention in execution of a decree of the civil court for debts. A similar provision no doubt is there under the Deccan Agriculturists Act but it does not apply to all the Presidencies. Sir, it is improper to try to restrict the scope of this Bill only to the industrial workers. Arrest and detention in execution of a decree for debt is a relic of the barbarous age. Man is not a chattel to be sold. I have known many cases where a man, who has been avoiding arrest, was prepared to place all his property at the disposal of his creditors and yet he was not able to keep himself away from the jail. I ask my Honourable friend, Mr. Lalchand Navalrai, whether the debt of a man is extinguished if he is sent to jail ? Is it so ? No, Sir. If a man is sent to jail, the debt is not extinguished. What then is it for ? It is for the purpose of coercing him. Even if he has got property worth Rs. 5,000, he may not be able to raise money immediately even for the payment of a decree worth Rs. 500. I know of instances of judgment-debtors who were prepared to place all their property at the disposal of their creditors and yet the Insolvency Court has not been able to release them. Of course, the judgment-debtor must seek the protection of the court but it is entirely at the discretion of the court to grant him protection or not from arrest in execution of a decree. There is this *lacuna* in the Civil Procedure Code and the Provincial Insolvency Act which must be remedied. What can a judgment-debtor do ? He is prepared to place all his property at the disposal of his creditor and even then he is not released. In some cases the creditor knows definitely that his judgment-debtor has no more property, still he goes on coercing him so that the jewels which his wife wears and which have been given to her by her parents and which do not belong to her husband may be sold and his debt paid. In order to get the money in this way he is prepared to

[Mr. M. Ananthasayanam Ayyangar.]

send him to the jail. I know of cases where a decree for Rs. 10,000 was got transferred simply for the purpose of preventing the judgment-debtor from attending three consecutive meetings to act as the Chairman of a Municipal Committee. Does my Honourable friend, Mr. Lalchand Navalrai, want to perpetuate this practice? Then I know of another case where a man has been skulking but was ready to place all his property at the disposal of his creditor. On the previous night the man came to his house with a view to have an oil bath for Dipawali. His creditor came the next morning at 5 o'clock and the man was just in front of his house when he was caught hold of and was arrested. Does my Honourable friend, Mr. Lalchand Navalrai, want that such things should be perpetuated? I can say from my own personal experience how these creditors want to take the life-blood out of these judgment-debtors. I honestly believe that this measure is intended to see that this kind of creditors who are not anxious to get back their money should be treated in the way that they deserve. If a man has no property, do not lend him any money. If a man is not prepared to sell his property in the discharge of his debts, do not lend him. The Legislature and the Government are anxious to see that. These men are made incapacitated from borrowing, with a view to see that they are enabled to take care of themselves and therefore they ought not to borrow. But if a creditor lends him even in these circumstances, then this provision is necessary in this Bill. My Honourable friend, Mr. Lalchand Navalrai, must thank himself that the Honourable the Home Member has not introduced another provision in this Bill that it is the creditor who must be sent to the jail and not the debtor. Why does the creditor lend money when he knows definitely that the man has not an inch of land? On what ground does he lend? I know of other cases where the creditor was not prepared to take the re-payment of his debt because he knew that his debtor had a piece of land adjoining his and he had his eye on it. He wanted to have that piece of land so that he may sink a well in it. He allowed his debtor some time during which the poor fellow spent all the money that he had to pay his creditor, on some marriage and then he caught hold of him and got his property sold. I, therefore, oppose this amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 2 of the Bill, in the proposed proviso to section 51, after the word ‘ Provided ’ the words ‘ in case of industrial workers in receipt of wages less than rupees one hundred ’ be inserted.”

The motion was negatived.

**Qazi Muhammad Ahmad Kazmi** (Meerut Division : Muhammadan Rural) : Sir, I beg to move :

“ That in clause 2 of the Bill, after the proposed proviso to section 51, the following further proviso be added :

‘ Provided further that in case (a) the judgment-debtor shall not be sent to civil prison, if he is leaving the local limits of the jurisdiction of the Court *bona fide*, leaves his address with the court, and satisfies the court that he will attend the court whenever called upon to do so by the court within a period of three years, or within such period as the decree becomes inexecutable due to lapse of time—whichever is shorter—and that within that period will keep the court informed of any change of address. For this purpose the court may order the judgment-debtor to furnish security to the satisfaction of the court ’.”

Sir, in moving this amendment I want to bring to the notice of the House the proviso to clause 2 of the Bill which says :

“ Provided that where the decree is for the payment of money execution by detention in prison shall not be ordered unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied—

(a) that the judgment-debtor, with the object or effect of obstructing or delaying the execution of the decree,—

(i) is likely to abscond or leave the local limits of the jurisdiction of the Court.”

So, the mere fact that the judgment-debtor is about to leave the local limits of the jurisdiction of the court is sufficient for sending him to jail. (Voices : “ No, no.”) I would just like to be satisfied as to why not ? I would only like to be enlightened on that point. It is clear that when the judgment-debtor is leaving the jurisdiction of the court, it will always have the effect of delaying the execution of the decree. I would like to know from the Honourable Members who may think otherwise what are their grounds for saying so. Suppose, a judgment-debtor, who is living in the jurisdiction of a particular court, gets an employment outside. He leaves Saharanpur and gets himself employed outside in Bombay. He wants to go to Bombay. Then as soon as the appointment order is obtained, the decree-holder goes to court, puts in his application that this man is leaving the local jurisdiction of the Court with the effect of delaying the execution of the decree and that he is not paying it up and therefore he must be sent to civil prison. Before the court the man admits that he has got a job in Bombay and that he is going away to that place. Even if the court wants not to send him to jail and wants to give him an opportunity to go to Bombay and serve there and earn money at that place to pay off the debt, can the Court allow it under the present Act. The proviso that I suggest does away with that doubt and I see no reason why the court if it is satisfied that the man is going *bona fide* outside the jurisdiction of the court may ask him to furnish security for that purpose and may order him to go away to that place and inform the court of any change of address and to furnish securities for that purpose. So far as this provision is concerned, it is an enabling provision. Even if my Honourable friends think that even with the existing proviso, the court would be entitled to allow a judgment-debtor to leave the jurisdiction of a court for *bona fide* reasons, even then by the addition of this proviso it will not take away anything from the spirit of the Act, but it will add something to clarify something which the courts in the absence of this proviso may not like to act upon. Sir, I move :

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 2 of the Bill, after the proposed proviso to section 51, the following further proviso be added :

‘ Provided further that in case (a) the judgment-debtor shall not be sent to civil prison, if he is leaving the local limits of the jurisdiction of the Court *bona fide*, leaves his address with the court, and satisfies the court that he will attend the court whenever called upon to do so by the court within a period of three years, or within such period as the decree becomes in-executable due to lapse of time—whichever is shorter—and that within that period will keep the court informed of any change of address. For this purpose the court may order the judgment-debtor to furnish security to the satisfaction of the court ’.”

**Mr. J. A. Thorne** (Government of India : Nominated Official) : No one who heard the Honourable the Mover read his amendment, or who reads it for himself on the Order Paper, can do so without feeling that it is extremely awkwardly expressed. That, I suggest, is not merely or mainly a matter of bad drafting, but because the Honourable the Mover is trying to import into the Bill something which is not essential. This really amounts to a pious wish or hope, and we who are concerned to have in the Bill only what is essential would propose to keep anything out of it which is not necessary for the purpose of the Bill and which confuses the issue by the expression of a pious wish. I submit, Sir, the Honourable the Mover is quite wrong in thinking that his amendment enables or would enable a court to do what it is not enabled to do by the provision itself. The provision in our Bill is not that if a man is likely to leave the local limits of the jurisdiction of a court he shall be arrested, it is that the court has got to be satisfied for reasons recorded in writing that he with the object or the effect of obstructing or delaying the execution of the decree is likely to leave the local limits of the jurisdiction of a court. I submit it is perfectly open to the judgment-debtor to go to the court and say "I want to go to Bombay or elsewhere, I am prepared to leave my address, I am prepared to satisfy the court that I will return" and it is perfectly open under the Bill as drafted for a court to give him that permission, if it is satisfied that his leaving the local limits of the jurisdiction of the court will not have the object or effect of obstructing or delaying the execution of the decree. Sir, I oppose.

**Mr. Lalchand Navalrai** : Sir, it seems to me that this amendment is unnecessary. If the Honourable Member refers to clause 2 (a) (i) he would find the words :

"is likely to abscond or leave the local limits of the jurisdiction of the court."

Now, Sir, in the first place 'abscond' in itself means what it is. He must go either secretly or he must go to a place where he will not be found. As regards the other words also, *ejusdem generis*, if he leaves the court in such a suspicious manner or leaves it with dishonest intention of delaying or obstructing the execution of the decree, therefore those words being there, the amendment is unnecessary.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 2 of the Bill, after the proposed proviso to section 51, the following further proviso be added :

'Provided further that in case (a) the judgment-debtor shall not be sent to civil prison, if he is leaving the local limits of the jurisdiction of the Court *bona fide*, leaves his address with the court, and satisfies the court that he will attend the court whenever called upon to do so by the court within a period of three years, or within such period as the decree becomes in-executable due to lapse of time—whichever is shorter—and that within that period will keep the court informed of any change of address. For this purpose the court may order the judgment-debtor to furnish security to the satisfaction of the court.'

The motion was negatived.

**Mr. N. V. Gadgil** (Bombay Central Division : Non-Muhammadan Rural) : Sir, I gave notice of amendments Nos. 5 and 6 yesterday, and I should like to know whether the Honourable the Home Member wants to raise any objection on the ground that two days notice has not been given. If he does object, then I will move No. 4.



**The Honourable Sir Henry Craik :** I think the Honourable Member's point is that notices of amendments Nos. 5 and 6 were given only yesterday at one o'clock and therefore strictly speaking they are out of order. I was going to raise that objection to Nos. 5 and 6 if the Honourable Member moved amendment No. 4. If he prefers to drop No. 4 and move No. 5 I have no objection.

**Mr. N. V. Gadgil :** I drop out amendment No. 4\*. I move amendment No. 5 which runs thus :

" That in clause 2 of the Bill, after the proposed proviso to section 51, the following further proviso be added :

' Provided further that no agriculturist shall be arrested in execution of any money decree '."

**The Honourable Sir Henry Craik :** I take it that if amendment No. 5 is defeated, the Honourable Member will not move amendment No. 6.

**Mr. N. V. Gadgil :** Amendment No. 6 is merely consequential. I shall move it only if amendment No. 5 is carried.

**Mr. M. Ananthasayanam Ayyangar :** The word " agriculturist " is not defined in the Civil Procedure Code, and he wants to add an explanation giving the definition.

**Mr. N. V. Gadgil :** Sir, when this Bill was being referred to the Select Committee in September 1935, I had an opportunity of participating in the debate and discussion thereon. I then suggested that inasmuch as the trend and direction of legislation was towards giving more and more immunity to debtors from personal arrest, at any rate one class of debtors, namely, the agriculturist, which was already enjoying complete immunity in the Presidency of Bombay under the salutary provisions of the Deccan Agriculturists' Relief Act should also be given absolute immunity even outside the Bombay Presidency. It is not for the first time that I am bringing this particular point of view as is embodied in the amendment to the notice of the House. The Deccan Agriculturists' Relief Act was passed in the year 1879. Before this Act was passed there were riots in several districts of the Deccan, particularly in Poona, Sholapur and Ahmednagar. A commission was appointed and a report was made by that commission, and in pursuance of certain conclusions and remedies suggested by the Deccan Riots Commission, the Deccan Agriculturists' Relief Act was passed by the Imperial Council in 1879. When that Act was under discussion this principle of absolutely exempting agriculturists from arrest was not even objected to. In fact if I draw the attention of the Honourable the Home Member to the proceedings he will find not only that that provision was welcomed by everyone but one of the Members of Government even went to the length of saying this:

" The proposed abolition of imprisonment for debt had his concurrence as a measure which if found to work satisfactorily in a limited area may be advantageously extended at some future date to all India."

That was on the 17th July 1879. Fifty-seven years have passed and I think that so far as the test laid down in this particular part of

" That in clause 2 of the Bill after the proposed proviso to section 51, the following further proviso be added :

' Provided further that no agriculturist as defined in section 2 of the Deccan Agriculturists' Relief Act shall be arrested in execution of any decree '."

[Mr. N. V. Gadgil.]

the speech is concerned, namely, whether the Act has worked satisfactorily in a limited area, I will be able to satisfy the Honourable the Home Member, if any proof were necessary, that so far as the Presidency of Bombay is concerned it has worked with complete satisfaction.

**Mr. Lalchand Navalrai :** Not in Sind.

**Mr. N. V. Gadgil :** We have done with it and got rid of it.

Objection may be raised, as was raised by one of my Honourable friends when I had occasion yesterday to speak with him, that if this immunity is extended to all agriculturists outside the Bombay Presidency, his credit will be affected. Sir, my experience is that the *soucars* or the moneylenders do not look to the person of the debtor when they advance money ; they rather look to his broad acres, to his character and to his relatives, if they are rich or otherwise. In fact this remedy of attempting to recover money by putting the debtor in jail is a relic of barbarism. And if my Honourable friend, Mr. Lalchand Navalrai, wants to know something about tradition, I shall be able to point out to him from the reports of the proceedings of the Imperial Council in 1879 that even in those native States which we are prone to call backward, there was complete exemption from arrest, so far as debtors were concerned, in the State of Morvi....

**Mr. Lalchand Navalrai :** Was it on account of riots ?

**Mr. N. V. Gadgil :** There were no riots in Baroda State.

**Prof. N. G. Ranga :** You wait until there are riots all over India ; then you will agree.

**Mr. N. V. Gadgil :** In Hyderabad usurious interest was cut down to a reasonable rate. Imprisonment for debt was not allowed in Morvi nor apparently in Bhavnagar. In Baroda it was forbidden altogether during the cultivating season and was sparingly used at other times. In Hyderabad it was reserved for cases of contumacy or fraud. That was the position in 1879 or thereabout, and that is exactly the position which this Bill seeks to create in the year of Grace 1936. Anyway we are backward by 57 years so far as Hyderabad is concerned.

**Mr. Lalchand Navalrai :** Is this Hyderabad in Sind or in Deccan ?

**Mr. N. V. Gadgil :** Does the Honourable Member imagine that his Hyderabad will ever be progressive ?

That was the position in 1879. Things have materially progressed in native States. I am really surprised why the Government of India should not accept my amendment. If I were to read another passage you will find that some statistics is given about the abuse of warrants of arrest in the year 1874. These Commissioners say, for instance :

" In 1874, it would seem that somewhere about one lakh and fifty thousand warrants had been used as threats only. The outcry against imprisonment from officers well qualified to judge of it has been uniform and persistent."

The abolition was unanimously recommended by the Riots Commission. Then, Sir, what is the result ? If this is not abolished what really happens is this. When a man is threatened with civil arrest all that it implies makes him enter into fresh contracts. One of them is to give another fresh bond for more money than is really due or to acknowledge

unacknowledged debts or even to offer to serve in some sort of menial work, and in many cases he had to purchase his freedom at the cost of the honour of his females. That is what the commissioners found ; and I do not want to take the time of the House by quoting extensively. The point is really this. If it was accepted in the year 1879 that this barbaric form of remedy for the creditor to realise his dues should be abolished, and if as an experiment it was sought to be introduced in an important part of the country and when it has worked with complete satisfaction for a period of 57 years, I see no reason why the Government of India which,—I will not say pretends but for the purpose of this amendment I honestly believe,—does look after the interests of agriculturists, should oppose this. Looking at it from any point of view, whether from the ethical or from the utilitarian, in either case it is only due to the agriculturist that this amendment should be accepted. I might be told that the opinions of the Local Governments have not been invited on this particular principle involved. I think if we were to judge the trend and direction of all pieces of legislation undertaken by the various provincial Governments for the relief of the agriculturists all over the provinces, there cannot be any doubt that all Local Governments will agree to this principle. And if the Honourable the Home Member agrees with what I have said so far, I think he should have no objection to the acceptance of this amendment. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 2 of the Bill, after the proposed proviso to section 51, the following further proviso be added :

‘ Provided further that no agriculturist shall be arrested in execution of any money decree ’.”

**The Honourable Sir Henry Craik** : Sir, I am very sorry I cannot succumb to the pathetic pleadings of the Honourable Member opposite to accept this amendment, for I am afraid it is wholly inconsistent with the principle underlying this Bill. This Bill is designed to save from imprisonment the honest debtor : it is not designed to save from imprisonment the debtor who is able but who refuses to pay his debt or the debtor who behaves dishonestly. The Honourable Member's amendment would exempt the agriculturist debtor whether he is honest or dishonest. There are no saving words in the amendment that prevent a dishonest debtor from getting the benefit of the amendment. That seems to me a radical defect in the amendment. Secondly the Bill proposes to give relief to all classes of debtors alike ; and as I have said in opposing the first amendment moved by Mr. Lalchand Navalrai, it would be contrary to the spirit of the Bill to single out for a special measure of protection any particular class of debtors. The Honourable Mr. Gadgil has given as his main reason in favour of his amendment that a similar provision is found in the Deccan Agriculturists Relief Act which was passed in 1879 after, I believe, there had been rioting of some severity in that particular part of India. That Act had a very limited scope. It applied only to four districts in the Bombay presidency—in fact I am not sure even if it applied to the whole of them....

**Mr. N. V. Gadgil** : Some provisions are made applicable to the whole of India.

**The Honourable Sir Henry Craik :** If the Honourable Member will refer to the Act, he will find that only certain sections, not including this section which exempts the agriculturist from arrest, so apply. Section 21 is the one that excludes agriculturists from arrest : that does not apply to the whole of British India : the rest of the Act extends only to the districts of Poona, Satara, Sholapur and Ahmednagar, but it may be extended by the Local Government to other districts of the Bombay Presidency : whether it has been so extended or not, the Honourable Member probably knows better than I do.....

**Mr. N. V. Gadgil :** It extends to Deccan—except Ratnagiri and port of Colaba.

**The Honourable Sir Henry Craik :** I will take that from the Honourable Member. But no such provision has been brought into force in any other part of British India.

I could not possibly accept—I think it is obvious—a very sweeping amendment of this character during the last stages of the Bill, without consulting Local Governments and finding out what the effect on the economic credit of agriculturists would be. Obviously the effect of such a provision would be very considerable. The Honourable Member has anticipated this objection and said “ If you consult Local Governments, I am perfectly certain you will find that all are in favour of it ”. I doubt that very much indeed and I will explain why I doubt it. The Legislative Council of the Punjab, for example, has lately passed an Act called the Punjab Relief of Indebtedness Act: it was passed quite recently in 1934: and a provision dealing with imprisonment for debt was inserted in that Act during its passage through the local Council. To the best of my recollection and belief, it was inserted on the motion of a non-official member who is a very strong champion of the agriculturist class ; it is section 34 of that Act and it is in effect practically the same as the Bill which is now before this Assembly. It makes no special exemption in favour of the agriculturist, although the whole purpose of this Punjab Act was to benefit the agriculturist. It reads :

“ Notwithstanding anything to the contrary contained in any other law for the time being in force, no judgment-debtor shall be liable to arrest for default in the payment of any money due under a decree unless the court is satisfied that the judgment-debtor has without just cause contumaciously refused to pay the amount due in whole or in part within his capacity to make payment.”

That, in effect, embodies the principle of our Bill exactly, but there is no special exemption in the case of agriculturists ; and I think that shows that there is no feeling in that province at all events for such an exemption. I was in the Punjab certainly when this Bill was introduced, though not when this particular section was inserted in it, as that happened during the passage of the Bill ; but to the best of my belief there was no amendment moved that any special measure of protection should be given to the agriculturist.

Similarly, take the case of the Central Provinces. A Bill to amend section 51 of the Code of Civil Procedure, moved by a private member, is now pending before the Central Provinces Legislative Council. The select committee to which this Bill has been referred has adopted *verbatim* our present Bill. It has not included any special protection for the agriculturist.

These two instances at any rate do not support the Honourable Member's contention that a change on the lines of his amendment would command the universal support of the provinces. One province has just dealt with the question and another is dealing with it, and neither of them has adopted this amendment.

As I have said, my two main objections to this amendment are, first, that it extends a special measure of protection to the dishonest debtor—the dishonest agriculturist as well as to the honest agriculturist, and secondly, that it conflicts with the main principle underlying this Bill that all debtors alike, provided they are honest, should receive the same measure of protection. I must, on these grounds, oppose the amendment.

**Prof. N. G. Ranga :** Sir, I fail to understand the logic of this Government of India. Certain provisions of the Deccan

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Agriculturists Act came to be adopted for all India purposes, not because the Government of India thought it beneficial for the agriculturists that they should be so adopted, but because the Deccan agriculturists having had the glorious Mahratta traditions behind them were brave and courageous enough to dictate to the Government at Bombay as well as at Delhi almost at the point of their daggers as to how and to what extent they should be protected from the ravages of the money-lenders, the zemindars, the landlords and the Government themselves. Are we to understand that this Government will not listen to reason and will only listen to riots, to bombs and bombs from aeroplanes also? Yes, Sir. My Honourable friend, the Home Member, laughs. There is justification for his laughter because the agriculturists in this country for the last 57 years have grown more peaceful, have come to be sensible in the eyes of this Government, have come to be law abiding in the eyes of this Government; and the reward that they get is a laugh from the Honourable the Home Member: and the reward that they get is a kind of answer that the Honourable Member has given to the amendment moved by my Honourable friend, Mr. Gadgil. Sir, he cannot very well plead that this question of exempting the agriculturists from arrest altogether has been thrust upon his notice rather too suddenly. The Deccan Agriculturists Act has given him 57 years notice and the Bombay Legislative Council has given him 57 years notice. Even my friend, Mr. Gadgil, has reminded the Government and helped them to come out of their forgetfulness and realise what could be done and what ought to be done for the agriculturists. My friend, the Home Member, comes and says this is too drastic. What was not looked upon as drastic 57 years ago has come to be looked upon as drastic by the Honourable the Home Member in 1936. I am informed that this was an Imperial Act. The Government of India did not have to go all the way to Poona to search the archives. My friend, the Home Member, considers this too drastic, because the agriculturists are not organised, are law abiding, are peaceful. They have somehow or other forgotten their own political responsibility and allowed men like my Honourable friend, Mr. Lalchand Navalrai, to come here and lord it over us. If we look at the effects of this particular Deccan Agriculturists Act, we find that the credit of the agriculturist in the Deccan has not gone down. They have been blessed with a very good and efficient system of co-operative banking or land mortgage banks. They do have enough credit to carry on their own agriculture. Dr. Harold Mann who has carried on economic surveys in the area and who has published two very authorita-

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tive monographs has himself borne testimony to the useful results of this Act. If this Act is good for the Deccan agriculturists, I do not see any reason why it should not be considered good for agriculturists in other areas. I would like the peasants to feel that at least once their voice has been heard and if the peasants desire this, I do not see any reason why the Government of India should refuse to accept this amendment.

It may be that the Government of India wants to defend the money-lenders. Even then the money-lenders in the Deccan area have not complained that their trade has gone down and they have been ruined. Money-lenders are still there. The only thing that they are not able to take advantage of is this barbaric provision in the Civil Procedure Code and send these people to jail, to keep them under duress and collect whatever they can, that is their pound of flesh, by melting down the jewels and other assets of their families and their relatives.

We are told that this amendment is inconsistent with the principles underlying this Bill. This Bill seeks to protect all the honest debtors and it does not make any distinction between one class of debtors and another class. But there is a precedent for our proposal. In section 60 of the Civil Procedure Code we find that industrial workers are sought to be helped to some extent. Then we come down to the salaried employees who are also sought to be helped. Then if we look at provision (1) we find that the industrial workers are sought to be helped. Agricultural produce cannot be attached before judgment and agriculturists' tools, a certain amount of grain and a pair of cattle and so on cannot also be attached. So different classes of people are protected from money-lenders by different provisions of sub-section (1) of section 60. If that is so in the case of the Civil Procedure Code, I do not know why the Honourable the Home Member thinks it is not possible for him to accept an amendment of this nature. Reference was made to what has happened in two provinces and the Home Member told us that in those two provinces anyhow it was not found possible to exempt these agriculturists from arrest. A positive attempt was made in the Punjab to exempt them. I am told that it was not even defeated. That does not prove that in this country public opinion is against exempting agriculturists from arrest. I suggested to the Home Member in conversation with him yesterday that he should be good enough at least to circularize this particular proposal to all the Provincial Governments and ascertain public opinion and agree to bring at the earliest possible opportunity another Bill to try to exempt the agriculturists. I was given a negative reply. I do not know whether he would be good enough to give us any assurance, a sincere assurance that he would try to take the earliest opportunity to bring forward another Bill to implement this proposal after ascertaining the opinions of Local Governments and thus to help the agriculturists. If he is not prepared to give this assurance then this section of the House at any rate would fight for this amendment to the very last. Sir, I support this amendment.

**The Honourable Sir Henry Craik :** With your permission, I would like to refer to what the Honourable Member said in the last words of his speech. He said something about my giving an assurance that I will consult Local Governments. I am prepared to consult them on the general principle embodied in the amendment but I cannot pledge

myself in advance, before I have received the opinions of Local Governments, that I will bring in another Bill. I am prepared to go as far as this, that is to consult Local Governments on the principle embodied in the Honourable Member's amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 2 of the Bill, after the proposed proviso to section 51, the following further proviso be added :

'Provided further that no agriculturist shall be arrested in execution of any money decree'."

The motion was negatived.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

"That clause 3 stand part of the Bill"

**Mr. Lalchand Navalrai** : Sir, I beg to move : (*Cries of "Withdraw," "withdraw"*). Sir, when I have moved my amendment and adduced the reasons for it, the House will see the justice of it.....

**Mr. President** (The Honourable Sir Abdur Rahim) : The Assembly is now adjourned till Half Past Two.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

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The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

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**Mr. Lalchand Navalrai** : Sir I move :

"That in clause 3 of the Bill, to the proposed proviso the following be added at the end :

'or with intent to defeat the object of the execution of the decree is about to dispose of his property'."

Sir, the proviso which has been added in the Bill seeks to amend rule 37 of Order XXI of the First Schedule of the Civil Procedure Code. It will be much better to read rule 37 in order to make my amendment understandable to the House. It says :

"Notwithstanding anything in these rules, where an application is for the execution of a decree for payment of money by the arrest and detention in the civil prison of a judgment-debtor who is liable to be arrested in pursuance of the application, the court may, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear and show cause."

I emphasise the word 'may'. According to this rule it is quite clear that if the court thinks it right, a notice may be issued upon the

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judgment-debtor to show cause why he should not be sent to jail. In connection with that, an amendment has been made in this Bill. It says :

“ In sub-rule (1) of rule 37 of Order XXI in the First Schedule to the said Code, for the word ‘ may ’ the word ‘ shall ’ shall be substituted, and to the sub-rule the following proviso shall be added, namely : ”

It must be quite plain to the House that they want to take away the discretion which the court has. At present notices are being issued and I see from certain opinions that in some Presidencies there is this practice of issuing notices. Now, to take away the discretion of the court is a thing to which I object. The court should be given the discretion to issue a notice because occasions do arise that by the time he is arrested he disposes of his property and does many acts of bad faith. In this case the Government has gone so far as to say that no notice will be necessary in case it comes under the proviso which is added to clause 3. That proviso says :

“ Provided that such notice shall not be necessary if the court is satisfied, by affidavit or otherwise, that, with the object or effect of delaying the execution of the decree, the judgment-debtor is likely to abscond or leave the local limits of the jurisdiction of the Court.”

In other words, it comes to this that the discretion of the court is now restricted in the sense of not issuing a notice only in one case, namely, when it is proved to the court that he is likely to abscond or to leave the jurisdiction of the court. My amendment seeks to add a further proviso to this proviso to the effect ‘ or with intent to defeat the object of the execution of the decree is about to dispose of his property ’.

Now, Sir, all along it has been asserted by the Government that they want to provide this kind of thing only for the honest debtors. Now, if I can show that what I am suggesting is only to check a dishonest debtor, is Government going to help me or not for this amendment ? What I am asking is very plain. Supposing a man were to dispose of property with intent to defeat the object of the execution of the decree, it will be fraud. Then he will not be called an honest debtor but will be called the most dishonest debtor. Therefore, why should you restrict the discretion of the court ? If the court were to come to the conclusion by affidavit or by evidence that it is a dishonest act, why should the court not call him at once before itself ? I am only putting in this proviso in the interests of the creditor when the judgment-debtor is playing dishonesty with him. If the arrest is not made at once, without notice, then he will dispose of his property and he will come before the court and say : ‘ I have honestly disposed of my property ’. In that case, the sale of his property cannot be nullified. My proviso is just like the proviso suggested by the Government. All that I am asking is that the discretion of the court may be widened a bit. If the court is compelled to issue notice, then in the case of dishonest debtors also you are compelling it to issue a notice. Under these circumstances, I submit that Government will at least stick to what their object is and which they have been asserting in this House that they are only doing it for the purpose of honest debtors. Here I have shown you a dishonest debtor and why don't you help me in catching him. With these words, I move my amendment.



**Mr. Deputy President (Mr. Akhil Chandra Datta) :** Amendment moved :

“ That in clause 3 of the Bill, to the proposed proviso the following be added at the end :

‘ or with intent to defeat the object of the execution of the decree is about to dispose of his property ’.”

**Mr. J. A. Thorne :** Sir, I gathered from the attitude of the House when the Honourable Member for Sind rose before lunch to move this amendment that he has not very much support for it in the House. It will, therefore, suffice to indicate very briefly why the Government are not able to accept it. Now, rule 37, which is the rule in question, deals with the first stage, that is, the first stage after an application for the execution of a decree by the arrest and detention of a judgment-debtor is received. The court has then to decide whether notice shall be issued to the judgment-debtor. Under our Bill we require that the court shall issue a notice except in one case, that case being where the court is satisfied that the judgment-debtor means to abscond. Well, Sir, I submit that at that stage this is all the court has to see to. The essential is to obtain the attendance of the judgment-debtor. There is no other essential. Once his attendance is obtained, then the procedure follows which is indicated in clause 2 and it is open to the judgment-debtor to raise any of the grounds there stated. But at the first stage to say that the court shall have a discretion to dispense with notice and issue a warrant for the arrest of the judgment-debtor simply on the strength of an affidavit that he has the intent to dispose of his property with the object of defeating the execution of the decree, is to impose on the court a very invidious discretion and leave the way open to fraud or oppression on the part of the creditor, whose interests the Honourable Member for Sind seems to have so much at heart. Secondly, the amendment is bad for vagueness. It is impossible for the court to be satisfied of a judgment-debtor's intention to dispose of his property when *ex-hypothesi* he is not present there to meet the affidavit. Sir, I oppose the amendment.

**Mr. M. Ananthasayanam Ayyangar :** Sir, I wish to say only a few words. I do not rely entirely on the impatience of the House to proceed with the amendment. There are substantial reasons why this amendment ought not to be allowed. Sir, the House has already accepted clause 2 and passed it, whereby section 51 has been amended so as to do away with arrest or detention in execution of a decree except under three conditions : that he is likely to abscond or that he is a person who has disposed of his property after the institution of the suit or that he is refusing to pay the amount of the decree even though he had the means to do so or that he is obliged in a fiduciary capacity to repay. These are the circumstances in which the judgment-debtor can be arrested and detained. Clause 3 regulates and tries to modify Order XXI, Rule 37 of the Civil Procedure Code by providing as a preliminary step that he may be arrested in case he attempts to abscond before the enquiry is made. That is, he has to be brought before the Court before it is ascertained that he has committed one or the other of the acts for which alone he could be sent to jail. At that stage if he absconds or if there is a likelihood of his absconding so as not to be available for such an enquiry before the court, provision is made by this proviso to clause 3 so as to enable the creditor to place him before the court. Now my Honourable friend, Mr. Lalchand Navalrai,

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wants that this proviso should be further amended by the addition of the words :

“ or with intent to defeat the object of the execution of the decree is about to dispose of his property.”

Well, Sir, he may be arrested and may be brought preliminarily there but for what purpose? If he seeks to dispose of his property, under the above circumstances, there is attachment provided for before judgment is passed. After judgment is passed, and before the execution of the decree, if there is any likelihood of the debtor disposing of his property, immediately an *ex parte* order for attachment may be obtained if execution proceedings are taken within one year after the previous execution proceedings or if execution proceedings are pending. So far as safeguarding the property is concerned, the provision in the Act is sufficient to keep the property in *custodia legis* by attachment immediately, even behind the back of the judgment-debtor. It is unnecessary to bring him under arrest in anticipation of subsequently sending him to jail.

**Mr. Lalchand Navalrai :** Perhaps the Honourable Member always had judgment-debtors as his clients.

**Mr. M. Ananthasayanam Ayyangar :** I have had both judgment-creditors and judgment-debtors alternately as my clients. Sir, the other point is this. If this proviso is added, we will assume there is an allegation made against him that he is trying to dispose of his property, and he is brought before the court under arrest. Ultimately what is it that he has to prove. We will assume that the creditor proves that he is attempting to dispose of his property. Is it open under the prior clause 2 that we have passed just now, assuming the court comes to the conclusion that he was about to dispose of his property, is it open to the court to send him to jail? If later on after enquiry for attempting to dispose of his property, if he could be sent to jail, very well, to see that that object is not frustrated or that punishment that can be meted out to him, is really suffered by that man, bring him in advance, so that he might not avoid it. We will assume he is brought. The previous clause that we have passed says, even if he is brought he cannot be sent to jail, even if it is proved that he is attempting to dispose of his property. I would ask my Honourable friend, Mr. Lalchand Navalrai, to read the sub-clause of the previous clause once again. Even if the allegation should be proved that he is attempting to dispose of his property after the decree is obtained, he cannot be sent to jail, he ought not to be sent to jail under the substantial section 51. The other sections are intended only to carry out the object of that section 51. We will assume he is brought before the court. How long is my Honourable friend going to ask the court to keep him there? On what charges? For what purpose? I would say it is absolutely unnecessary, it is against all principles accepted in this Bill and it is also not with a view to enable further proceedings in court. I therefore say, Sir, that immediately a judgment-creditor becomes aware of the fact that the judgment-debtor is going to dispose of his property, every prudent judgment creditor under the circumstances will get process of attachment of property through court. I therefore oppose the amendment.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That in clause 3 of the Bill to the proposed proviso the following be added at the end :

‘ or with intent to defeat the object of the execution of the decree is about to dispose of his property ’.”

The motion was negatived.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That clause 3 stand part of the Bill ”

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4 was added to the Bill.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That clause 1 stand part of the Bill.”

**Mr. G. H. Spence (Secretary, Legislative Department) :** Sir, may I, with your permission, move :

“ That in clause 1 of the Bill, after the figures ‘ 193 ’ the figure ‘ 6 ’ be inserted.”

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That in clause 1 of the Bill, after the figures ‘ 193 ’ the figure ‘ 6 ’ be inserted.”

The motion was adopted.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That clause 1, as amended, stand part of the Bill.”

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Sir Henry Craik :** Sir, I beg to move :

“ That the Bill, as amended, be passed.”

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That the Bill, as amended, be passed.”

The motion was adopted.

## THE TRADE DISPUTES (AMENDMENT) BILL.

**The Honourable Sir Frank Noyce (Member for Industries and Labour) :** Sir, I move :

“ That the Bill further to amend the Trade Disputes Act, 1929, for certain purposes, be circulated for the purpose of eliciting opinion thereon.”

Sir, I do not think that a long speech is ever necessary in the case of a motion for circulation of the Bill for eliciting opinion and I am quite sure that at this stage of the Session, this House is not particularly

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anxious to listen to a long speech from me or even from others more eloquent than I am. I shall, therefore, endeavour to confine my remarks on this Bill within as brief a compass as possible. It has been introduced into this House in pursuance of an undertaking I gave two years ago when the Bill to extend the operation of the Trade Disputes Act was under consideration. In the course of the discussion on that Bill, I mentioned that we had collected a number of useful opinions on the working of the original Act and that these contained suggestions for the amendment of the Act in various directions. At that time we had not had the opportunity of examining those suggestions in detail. We have since done so and the results of our examination are embodied in the measure which is now before the House.

We have, Sir, I hope in the notes on clauses given our reasons for the changes in substance proposed in the Act of 1929 sufficiently clearly to enable the House to follow them. Section 2 (g) of that Act defines "public utility services". We are proposing to add to the list of public utility services there given inland steamer and tramway services. It will, I think, be generally admitted that, as stated in the Notes on Clauses, inland steamer services are in some parts of the country indispensable means of communication. This in certain cities may also be true of tramways. In both cases, I would point out that it is not proposed to apply the provisions of the Bill to *all* services but only to those which Local Governments declare to be public utility services for the purpose of the Act. Section 2 of the present Act declares any industry, business or undertaking which supplies light or water to the public to be a public utility service. I do not know why power plants were not included originally, but there has been such a rapid development of the supply of power since 1929 that there can, I venture to submit, be no disagreement as to the necessity of including them now.

Under sub-clause (j) of Section 2 of the present Act, "trade disputes" include disputes between employers and workmen or between workmen and workmen. It is now proposed to include in the definition disputes between employers and employers. This has not been done entirely for the sake of symmetry but because there have been indications in the past that the need for it may arise. In any case it is a convenient change as it enables us to enlarge the scope of section 3 of the Act. That Section begins :

"If any trade dispute exists or is apprehended between an employer and any of his workmen," etc.

It is proposed to omit the words "between an employer and any of his workmen" and the section will then begin :

"If any trade dispute exists or is apprehended, the Local Government may refer the matters appearing to be connected with or relevant to the dispute to a Court of Inquiry or may refer the dispute to a Board of Conciliation."

Our reasons for this change are that although at present a "trade dispute" includes a dispute between workmen and workmen, the main provisions relating to conciliation are limited by Section 3, the opening words of which I have just read, to disputes between employers and workmen and not to disputes between workmen and workmen. We have had experience of the working of the Section since it was

first passed, and, if the Honourable Members from Burma were present, they would be able to tell the House how a trade dispute in Rangoon which was originally a dispute between employers and workmen, developed into a dispute between workmen and workmen with very serious consequences. That experience shows, Sir, that it may be useful to enable the machinery of the Act to be used in the case of disputes between workmen and workmen as well as between employers and workmen and between employers and employers.

The only other definition in which it is proposed to make a change is that in Section 2 (k). As the definition stands at present, it may be argued that discharged strikers have ceased to be workmen and that the main provisions of the Act cease to be applicable to disputes with men so discharged. It is obviously desirable that the position of such workmen should be left beyond doubt and the amendment is designed to make clear that they are, in spite of the fact that they have been discharged, still workmen for the purpose of the Act.

The amendments embodied in Clauses 4, 5, 6 and 7 need not detain us long. Those in Clauses 4, 5 and 6 embody a recommendation of the Railway Court of Inquiry in 1931-32, which held that under the Act as it stands, the presence of the Chairman of a Court of Inquiry was necessary at every sitting of the court, and suggested that the Act should be amended to make this unnecessary. The Chairman may be absent owing to unavoidable causes such as illness, but under the Act as it stands the Court of Inquiry cannot go on without him and the proceedings may be very seriously delayed. That is obviously undesirable in the case of trade dispute.

The amendment in Clause 7 makes it clear that under sub-section (2) of Section 15 it is not necessary to constitute an offence that the employer should lock out all his workmen without due notice. A partial lock-out should also be punishable. A new sub-section is inserted here the object of which is to help the Local Government to come to a prompt decision whether their intervention under Section 3 is necessary, by ensuring that the threat of stoppage is brought to their notice.

Now, Sir, I come to the most important clauses of this Bill.

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Before I proceed to deal with the objections that I know will be raised to them by some of my Honourable friends opposite and by the champion of labour on this side of the House, let me remind the House of what is said about them in the Notes on Clauses. The existing Section 16 which deals with illegal strikes and lock-outs was framed with the intention of protecting the community from both employers and employed. It is too often forgotten in considering the Act that it applies to both those sections of the community. One would think, from some of the criticisms which have been passed on it in this House and outside, that it was an Act solely for the protection of employers. But if the intention of section 16 was as I have described it, it has lamentably failed to achieve this purpose. Those who have experience of the severe hardship to the community which has too often afflicted the unfortunate city of Bombay will, I am sure, agree with the view expressed in the note on the clauses I am now discussing, that it is important that any measures to protect the public against the serious injury caused by a big

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strike should be taken. But it has to be recognised that those taking part in a big dispute may have a genuine grievance ; and it is proposed,—and here we have the most important advance made in this Bill,—to ensure that, when a strike or lock-out is declared illegal, the declaration must be accompanied by reference of the dispute to a Court of Inquiry or a Board of Conciliation, the period for which the declaration of illegality subsists being limited to two months.

There is only one clause of the Bill remaining to be considered, that which deals with Conciliation Officers. Before I come to that it will, I think, be convenient to deal with some of the criticisms which have been made against the new clauses. I have had the advantage of learning my Honourable friend Mr. Giri's opinion of them from an article in a Delhi newspaper which I read with great interest. If I may say so with all respect to one for whose single-minded devotion to the cause of labour I have a warm admiration, his attitude to this measure has little contact with practical realities. Underlying it is the idea which, in my view, is wholly mistaken, that the object of the Trade Disputes Act is to set up courts of appeal against the employer. Its object is nothing of the kind. It is to secure the settlement of disputes and the appointment of tribunals must depend not so much on the intrinsic strength of either of the parties to the case as upon the likelihood that the tribunal will be effective in securing the termination of the dispute. In the article to which I have referred, Mr. Giri has quoted the Labour Commission. He did not however quote their objections to compulsory arbitration, and as I have no doubt whatever that compulsory arbitration will be pressed in this debate as a panacea for all labour troubles, I may perhaps be forgiven for quoting them now. The Labour Commission say :

“ The objections to any scheme involving a compulsory reference of all disputes to arbitration are formidable, quite apart from the practical difficulties that confront such a proposal. We believe that the effect on industry would be disastrous if there was a general tendency to look to some external authority to preserve industrial peace and to discourage settlement by the industry itself. But if it is accepted that every dispute cannot be referred, it follows that discretion must remain with some authority to determine that the statutory machinery should be invoked and it is difficult to suggest any better authority than government for this purpose.”

The Commission passed on to consider and to reject a suggestion that compulsion should be applied in respect of the enforcement of awards. I do not propose to quote them on that subject now, though I may have occasion to do so later on. I will at once pass to the suggestion implicit in Mr. Giri's article and implicit in many of the questions which have been put to me in this House from time to time, that the provisions of the Act should have been applied in almost every trade dispute. This view was certainly not held by the Labour Commission which, as stated in the note on clause 11, held that the “ heavy artillery ” of the Trade Disputes Act, as it now stands, was not suitable for use in the earlier stages of a dispute and that it was far better to get the parties to the dispute to settle themselves than to put forward a settlement and attempt, by invoking public opinion or otherwise, to give it force. There is one point in this connection which I may perhaps mention in passing. We shall, I am sure, in the course of this discussion, hear a good deal about the Canadian Act. I would

point out that the Canadian Act prohibits a strike even before any Board is appointed.

I should like in concluding what I have to say on these clauses to emphasise the following considerations. The first is that, whereas the present Section renders certain strikes and lockouts illegal from the outset, no strike or lockout under the new Clause will be illegal until a notification has been issued. The second is, that whereas under the present Section an illegal strike is always illegal, a strike or lockout under the new Clause is illegal only for a limited period. The third is, that whereas under the existing Section there is no guarantee that any genuine grievances behind the strike will be investigated, under the new Clause a guarantee has to be given before the strike can be declared illegal. The fourth is, that the public utility striker will be placed in exactly the same position as the striker in ordinary industry in respect of the right to investigation of grievances, though he will not have the right to go on strike without notice. (Interruption by Mr. Joshi.) I have no doubt from my Honourable friend's comment on this point that we shall in the course of this discussion hear a good deal about the inherent right of lightning strikes.

I venture to submit that the points on which I have laid emphasis show that a useless section has been converted into one which should prove of great value in allaying industrial strife when it ceases to affect only those immediately involved and becomes a menace to the community.

There remains the last clause of all, Clause 11. This is designed to facilitate the employment of Conciliation Officers who will not be responsible, as are Courts of Inquiry or Boards of Conciliation, merely for the investigation and settlement of disputes, but will be charged with the duties of preventing them as far as is humanly possible. Nowhere is the maxim 'prevention is better than cure' more true than in regard to labour disputes. Indeed there is no cure, for the harm that is done by strikes can never really be effaced. It may be urged that the appointment of Conciliation Officers should have been made compulsory. The time in our view is hardly ripe for that. Circumstances vary from province to province and it seems much better to leave Local Governments' discretion to appoint such officers as and when they are needed. That they could render services of the utmost value is becoming increasingly evident by the success of the experiment which has been made in Bombay.

I would say in conclusion, Sir, that I am fully aware that this Bill like most of the labour measures that I have placed before this House, of which it will be the last, will satisfy neither side. I am also fully aware that those who represent the cause of labour in this Assembly will be the more vocal in expressing their dislike of it. It is unfortunate that owing to circumstances beyond my control it has had to be placed before the House so late in the Session, when most representatives of one of the two usual parties to a trade dispute are absent. I specially regret the absence of Sir Homi Mody who is always a valuable counter-weight to my Honourable friend, Mr. Joshi. I would like to remind Mr. Joshi and those who think with him that we have in the main followed the views of the Commission of which he was a distinguished member, from the same anchorage of whose recommendations

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I am as loath to break away in this respect as I have been in others. I maintain, Sir, that the Bill represents a substantial advance, which should be welcomed by both sides, in the cause of industrial peace, which, to repeat a platitude to which I have given utterance often in this House and outside it, is so essential to the industrial development of this country. It is in that honest and sincere belief that I commend it not only to this House but also to those to whom it will be sent for opinion. Sir, I move.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** Motion moved :

“ That the Bill further to amend the Trade Disputes Act, 1929, for certain purposes, be circulated for the purpose of eliciting opinion thereon.”

**Mr. N. M. Joshi (Nominated Non-official) :** Mr. Deputy President, at the outset, I wish to express my sincere regret that the Honourable Member in charge of the Department of Industries and Labour should have been advised to introduce this measure towards the end of his career in India. Sir, the Honourable Sir Frank Noyce has to his credit several Bills intended for the benefit of the working classes of this country. I therefore feel that he should have hesitated before introducing a measure which, taken as a whole, is hostile to the interests of the working classes. There are some sections in this amending Bill which I approve of. For instance, I approve of the provision for the appointment of conciliation officers. I also approve of some of the minor changes but, Sir, if you take the Bill as a whole, I feel that it is hostile to labour.

The history of the legislation for setting up machinery for the settlement of industrial disputes is a long one. After a long period of incubation from 1919, the Government passed in this Assembly the Trade Disputes Act in 1929. This Act consists of two parts. The first part provides for setting up machinery for the settlement of industrial disputes. The second part is intended for penalising the employees of the public utility services and also penalising those employees who go on a strike which is considered to be a general strike intended to bring pressure upon Government. It is, Sir, on account of the latter provisions which penalises the working classes of this country that the Trade Disputes Act was unacceptable to the labour movement of this country. Although the Trade Disputes Act of 1929 was unacceptable to the working classes of this country I became reconciled to it, believing that the advantages of the machinery for the settlement of industrial disputes may outweigh the disadvantage of the clauses which penalised the employees of the public utility services and which penalised what are known as general strikes but my experience from 1929 up to now has changed my attitude towards any legislation for the settlement of industrial disputes. During these years, although there were thousands of strikes in this country, the machinery of the Trade Disputes Act for the settlement of industrial disputes was only used on three occasions, once by the Government of India and twice by two Local Governments. This does not show the anxiety of either the Government of India or the Local Governments for industrial peace. The Local Governments depend for the settlement of industrial disputes and for industrial peace not on the machinery of the Trade Disputes Act but upon the repressive powers which the Government of India and the Local Govern-



ments possess. As soon as a strike takes place, section 144 is used. Meetings are prohibited. People who either take part in the strike or who are suspected of taking part in the strikes are prosecuted and the Government uses all its authority and the whole machinery which it possesses for breaking the strike instead of trying to settle the strike by means of the machinery of the Trade Disputes Act. Not only that, but during all these years, the penalising clauses regarding the public utility services and the general strike have been hanging over the heads of the working classes like the Damocles' sword. On account of this experience I am gradually coming to the conclusion that it is in the interests of the working classes that there is no use of any legislation for the settlement of the industrial disputes in this country. Unfortunately in 1934, when the Honourable Member in charge of the Department of Industries and Labour introduced a measure making the Trade Disputes Act of 1929 permanent, I had not made up my mind at that time. Then, I had some hope that the Governments of this country may make use of the machinery of the Trade Disputes Act in the interests of the working classes of this country, but, immediately after the passing of the Act of 1934, events happened which forced me to come to my present conclusion.

There was a strike in Bombay in 1934 in the textile industry. I thought that that was the best opportunity for the Government of Bombay to use the machinery of the Trade Disputes Act for the settlement of the strike. The Government of Bombay refused to do so. They used their powers under section 144 and other powers under the emergency legislation to break the strike. They broke the strike. They did not stop there but they thought that that strike was an illegal one, went to the court trying to penalise those people who had taken part in the strike. The magistrates' courts and also the High Court to which the Bombay Government made an appeal decided against the Bombay Government. Then, Sir, I came to the conclusion that this Trade Disputes Act was of no use. I felt that the Governments in this country were not anxious for the settlement of the industrial disputes but were anxious to break the power of the working classes of this country by using all the powers and all the authority they possess and I came to the conclusion very regretfully that there was no use in this country of any legislation for the settlement of trade disputes. Before I deal with the clauses I would like to say that if the Honourable Member in charge of this Bill had introduced a sort of consolidating measure instead of an amending measure it would have been more convenient from our point of view. If there is to be a Trade Disputes Act in this country, we want a good Trade Disputes Act and a proper one. I am afraid that we may find it difficult to amend this amending Bill in such a way that we shall be able to secure a Trade Disputes Act which is to our satisfaction. As regards the clauses of this Bill I have already stated that I am in favour of clause 11 which enables Local Governments to appoint conciliation officers. I am also in favour of a few other minor amendments which the Government of India have suggested but I am against the major portion of this amending Bill.

In the first place, taking the smaller things first. I do not approve of the provision that inland steam-vessels should be brought within the scope of the public utility services. Mr. Deputy President, inland steam-vessels in this country are under the control of private companies,

[Mr. N. M. Joshi.]

who are running those services, not for public use but for private profit, and I do not know why inland steam-vessels should be brought within the scope of the definition of public utilities. If the inland steam-vessels are to be brought within the definition of public utilities, tomorrow the Honourable Member will bring forward a Bill declaring busses, horse-carriages, and bullock-carts for hire to be within the definition of public utilities. In England, even the Railways are not included within the definition of public utilities and I do not know why in our country we should include inland steam-vessels within the definition of public utilities. Then this Bill seeks to bring in power plants within the definition of public utilities. I realize that there are some power houses which are intended to provide lights to towns and cities and which may be regarded as public utilities, but all power plants are not public utilities. There may be power plants which may be intended to supply power to factories. I do not know why such power plants should be included within the definition of public utilities. Then, Sir, even when power is intended to be used for a public purpose, such as for lighting, it is not always that there will be public inconvenience. Take, for instance a gas works employing about a thousand people. If fifty of these people go on strike, I do not suppose there will be any inconvenience to the public. Under these circumstances, Sir, why should a strike of these fifty men be regarded as an illegal strike?

Mr. Deputy President, I shall now deal with those smaller points and make a few remarks on the provisions of the original Act of 1929 regarding public utility services. Sir, section 15 of the original Act of 1929 makes a strike without notice in a public utility service illegal on the ground that there is inconvenience to the public and the interests of the public must be protected. I feel that even the employees of even public utility services have a right to withdraw their labour whenever they choose to withdraw their labour, but Mr. Deputy President, recognizing that the position of the employees of public utility services is a special one, it must be recognized by Government as well as by this Legislature that if the employees of public utility services are to be penalized on the ground that their services are needed by the public, is it not necessary that when we place the employees of public utility services under a disadvantage, we should be ready to give some advantage, to the employees of public utility services? I can understand your placing the employees of public utility services under disadvantage if you are prepared to give some compensating advantage to them on the ground that the employees are employees of public utility services. Mr. Deputy President, the Honourable Member quoted the Royal Commission. Unfortunately for the Honourable Member, I was a member of that Commission and the Royal Commission on Labour saw the injustice of placing the employees of public utility services at a disadvantage without giving them any advantage. They recommended that whenever the employees of public utility services would have a grievance, they should have the right of their grievances being investigated by Government. They were anxious to put an obligation upon the Government to investigate the conditions of the employees of public utility services, and you are not doing that. Sir, I shall come to the point which the Honourable Member raised that you are doing it by this Bill.

If the Government of India are doing it by this Bill, may I ask why they should retain section 15 of the original Act? If they withdraw section 15 of the original Act, I can understand their saying that they are willing to take the obligation of the compulsory investigation into the grievances of the employees of public utility services. Mr. Deputy President, if we are going to place the employees of public utility services under a disadvantage by recognizing their special position as the servants of the public, I feel that it should be provided that these public utility services should be under public control. If there is public control, there is likelihood, at least there is some likelihood, of the employees of public utility services receiving better conditions of life and work; but so long as the public utilities are in private hands and under private control, I do not know why we should make any difference between a public utility and a private work. In England, Mr. Deputy President, there is the Act of 1927 which penalizes a strike in a public utility service, but the Act of 1927 penalizes strikes in public utilities which are under the statutory local bodies,—not in those controlled by private companies.

Then, Sir, it may be said that in England, besides the Act of 1927, there is another piece of legislation penalizing strikes without notice in what are known public utility services. That legislation is the Conspiracy and Protection Act of 1875, but even that Act gives some protection to the working classes by putting in some safeguards. Under the Act of 1875, it is necessary to prove that when the employees of a public utility service go on strike, their action is wilful and malicious. Unless that is proved, they are not punished. Moreover, it is not enough to prove that the action of the employees was wilful or malicious, but it is necessary to be proved that there was a likelihood of inconvenience being caused to the public. That Act goes still further and insists that when the employees of a public utility service go on strike, they must have the knowledge that their act will result in causing inconvenience to the public. That Act also insists that if the employees of a public utility service are to be penalized, that service must be for the benefit of the public and not for a few private people. Sir, none of these safeguards is included in our legislation. We have got a provision declaring strikes in public utility services illegal without any safeguards. I would, therefore, like to make an effort during the discussion of this Bill to see that section 15 of the original Act is deleted.

I shall now, Sir, turn to clause 8 of this Bill which is the most important clause of this piece of legislation. Clause 8 is to take the place of section 16 of the original Act which is intended to declare illegal a strike which has an object other than the furtherance of a trade dispute within the industry in which the workers are employed and also which, being outside one industry, is intended to bring pressure upon Government by inflicting severe, general and prolonged hardship upon the community. That was the original section 16 of the Trade Disputes Act. Its place is to be taken by clause 8. Anyone who reads these two clauses will find that the application of clause 8 is hundred times wider than the application of section 16 of the Trade Disputes Act. Clause 8 of this Bill enables the Government to declare any strike illegal which has caused or is likely to cause not severe but serious, not general but only prolonged hardship or injury upon the community.

[Mr. N. M. Joshi.]

The clause does not stop there. It includes hardship not upon the whole community but of any section of the community, any section of the employers and any section of the workmen. If this clause is to be applied to any disputes which are likely to cause hardship to any section of the employers and any section of the employees, may I ask the Honourable Member in charge of the Bill whether there will be any strike in the world which may not be declared illegal? A strike is intended to cause some hardship to the employers, there is no doubt about it, and if a strike causes hardship, serious and prolonged hardship, to any section of the employers, it becomes illegal. I cannot imagine any strike which a Local Government may not be able to declare illegal under clause 8.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

Then, Sir, it may be said that it is true that we have made the application of clause 8 much wider than the application of the original section 16 of the Trade Disputes Act but we have also provided compensation for it. Under clause 8 whenever the Government declares a strike illegal, it is obligatory upon them to order an investigation into the complaints of the employees. I admit that this clause provides for some compensation but when we try to judge whether clause 8 will be beneficial to the employees or will be harmful to the employees, let us judge all the circumstances of the situation. Section 16 of the Trade Disputes Act is, no doubt, a drastic one; it makes certain strikes illegal. But, before a strike becomes illegal, that strike must spread to more than one industry. Secondly, that strike must cause to the whole community—not to a section of the community or a section of the employers or a section of the workmen, but to the whole community—severe, general and prolonged hardship. I feel that a strike of that nature, which any court even in India will declare illegal, will be very rare indeed. Strikes of that nature will not take place more than once in a generation. It took place in England only once and in India it may not take place even in our life time. Mr. President, although section 16 of the Trade Disputes Act is a drastic one, its application is very limited. I would, therefore, prefer section 16 of the Trade Disputes Act to clause 8 of this Bill. In spite of the fact that clause 8 provides a compensation in the form of an obligatory investigation, I feel that under the present conditions of India, the working classes of this country will not get any benefit out of the compensation which is provided under clause 8. Let us consider what is happening today. I have already explained that under our present circumstances Local Governments are unwilling to use the machinery of the Trade Disputes Act for the settlement of industrial disputes. During the seven years they used that machinery only on three occasions while there were thousands of strikes in this country. During all these years the Local Governments tried to break the strike by using all the powers which they possess. If, under these circumstances, we give the powers under clause 8, the Local Governments will use these powers not for the benefit of the working classes but always against the interests of the working classes. What the Local Governments will do is this. They will not use the machinery of the Trade Disputes Act. They will use their powers of repression. But, when Local Governments find that, in spite of the use of the powers of repression, a strike does not break, then they will

come on the scene and use the powers under clause 8. Suppose a strike goes on in spite of the Government's repression for two months and after these two months' suffering the Local Government will come on the scene and say : "Your strike is illegal and we are ordering an inquiry". The workers have already suffered for two months and the Local Governments will use their power of clause 8 to break the strike at that stage, so that, if the inquiry goes against the working classes and they do not accept the results of the inquiry, they will have absolutely no strength left to renew their strike. The object of the Local Government in using this Bill will be to end a strike at a stage when the Government find it difficult to break that strike by means of their repressive powers. When the strike is once stopped and an inquiry is conducted which lasts for two months, even if the workers want to renew the strike, they will not have the strength to renew it. If the Local Governments in this country had been impartial and if I had the least confidence in them as being friends of labour, I would have accepted proper legislation which makes strikes illegal before an inquiry is made. But, Sir, under the present circumstances, I cannot accept this kind of provision. The Government of India have stated in their Notes on Clauses that they have learnt by experience that section 16 of the original Act has not fulfilled the object with which that section was made. The Honourable Member in his speech also stated that that section was not fulfilling its object and he said that although hardship was inflicted upon the City of Bombay, still the Bombay Government could not make use of section 16. The decision of the Court went against that Government. Now, in this respect I would like the Honourable Member to remember that when the original section 16 was enacted it was never the intention of the Government of India that that section should apply to strikes like the strike in Bombay and I do not know why the Honourable Member should now complain that section 16 of the Trades Disputes Act was not enough to protect the community in Bombay. What the intention of the Government of India in 1928-29 was is written in black and white. I shall read a few words from the speech of Mr. MacWatters who made a motion like the one which the Honourable Member is making today. Mr. MacWatters speaking in the Legislative Assembly regarding clause 16 said this :

"I am afraid my Honourable friend who made these comments in Bombay will be sadly disappointed if he thinks this Bill has anything to do with the strike he was thinking of at the moment."

Some Bombay friends of Mr. MacWatters said that after the enactment of section 16 of the Trades Disputes Act, there will be no big strikes in Bombay and Mr. MacWatters replied that section 16 of the Trades Disputes Act was not intended to be applied to the strikes in Bombay. Why should the Honourable Member now complain that experience has shown that the community could not be protected by section 16 of the Act.

**The Honourable Sir Frank Noyce :** I was not complaining.

**Mr. N. M. Joshi :** I am glad the Honourable Member was not complaining and that he now agrees with me that section 16 was not intended at all to apply to strikes in Bombay.

**The Honourable Sir Frank Noyce :** No, Sir. I expressed no agreement of that kind.

**Mr. N. M. Joshi :** He should at least express agreement with the representative of the Government of India at that time. This clause 8

[Mr. N. M. Joshi.]

of this Bill is based upon the principle of Canadian legislation. That legislation is intended to postpone strikes pending enquiry. The object is that if the strike is postponed pending enquiry by making it illegal till the enquiry is made, most probably the strike will be avoided. I am not against this principle at all. But unfortunately although clause 8 is based upon the principle embodied in the Canadian legislation, it is not framed exactly on the lines of the Canadian Act. The Canadian legislation makes it obligatory upon the Government to order an enquiry within 15 days from the date on which an application for investigation was made. There is no discretion given to the Government as to whether the application should be accepted or not, except in one or two small respects. The Government can decide whether the application has come from an industry to which the legislation applies. Secondly, the Government have also to see that the applicant for investigation has made efforts for the settlement of the dispute without Government's intervention. The applicant is also to make a declaration that if investigation is not ordered, there is a likelihood of a strike taking place. When an application with due form and with this declaration is made and when the application comes from the employees of an industry to which the Canadian Bill applies, the Government has absolutely no discretion in the matter. As a matter of fact, statistics have been given about the use of the Canadian legislation and they prove that more than two-thirds of the applications sent to the Canadian Government for the use of this special Canadian Act were accepted and investigations were ordered and strikes were avoided. Unfortunately clause 8 of this Bill gives such wide discretion to the Local Governments that the use of clause 8 will only be made when the Local Government want to break a strike. Clause 8 will never be used, if I am to judge Governments by their present actions, in the interest of the working classes. Clause 8 will be used against the interests of the working classes. It is for this reason I am opposed to the provision of clause 8 of this Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : Is the Honourable Member going to discuss the Bill clause by clause now ?

**Mr. N. M. Joshi** : I shall take only five minutes more. Curiously enough the Canadian legislation applies to public utility services and to mines, while the Government of India provide separately for the public utility services and they make strikes without notice in public utility services illegal. If the Government of India want that the public utility services should be covered by clause 8, then they must agree with me in repealing section 15 of the original Act as in Canada.

Mr. President, I shall now only state what I propose to do about this Bill during the several stages of its discussion. I shall first try with the help of my Honourable friends to secure the deletion of clause 15 and clause 16 of the original Act. I shall also try to secure the deletion of clause 8 of this Bill. Failing in my object, I shall try to restrict the operations of clause 8 to the public utility services only and failing that I would like to secure legislation exactly on the lines of the Canadian model. Mr. President, in conclusion I wish to thank you and I thank the Honourable Members of the House for their patience in listening to me. (Applause.)

**Mr. B. Das** (Orissa Division : Non-Muhammadan) : Sir, I confess I do not possess the expert knowledge of my Honourable friend, Mr. Joshi, on labour laws all over the world. Yet I have sad experience of the distressing conditions in India prior to the enactment of the Trade Disputes Act of 1929. If we take our minds back to that period, we find that there was a serious strike in the Tata Steel Works at Jamshedpur from which that industry took a long time to recover and for which this Legislature has to give further doses of protection. We had at that time or prior to that the strikes on the railways and then we had all over the country sympathetic strikes of the steel workers, coal mines, textile workers and the railway workers. Thereafter the Trade Disputes Act of 1929 came. Unfortunately I was not present in those debates because I accompanied Mr. Joshi, not as an associate of the Labour but rather as an adviser to the employers' deputation to Geneva.

Sir, the Trade Disputes Act restored industrial peace in the country. When I was listening to my Honourable friend, Mr. Joshi, he was complaining not against strikes but the power of the strikers to have lightning strikes without giving notice to the employers. I listened to his argument most attentively because I have great respect for his tact and diplomacy.

**Mr. N. M. Joshi** : But you did not derive any benefit.

**Mr. B. Das** : What my Honourable friend, Mr. Joshi, wants is ideal power for the workers which idea is no doubt borrowed from English workers, European workers and Russian workers. I am not much enamoured of the powers which the workers of those countries possess, the power and the right of having lightning strikes, sympathetic strikes, etc. Otherwise my Honourable friend, Mr. Joshi, would not oppose section 15 of the old Act nor would he speak a word in favour of the new section 2 (a) in clause 7 that has been proposed by Government. Personally I felt, though I am in sympathy with the employers and belong to their organisation.....

**Mr. N. M. Joshi** : The Congress Party will dismember you.

**Mr. B. Das** : The Congress consists as much of the employers and the industrialists as of socialists and the workers. This new sub-clause is a fair provision whereby employers will be penalised. The Honourable Member for Industries and Labour suggested that we have not the benefit of hearing Sir Homi Mody who has the largest experience of industrial strikes. We do not know whether Sir Homi Mody will approve of this new sub-clause but I approve of it. And I should like to ask my Honourable friend, Mr. Joshi, whether since 1929 there have been any strikes in the public utility services. Mr. Joshi wants to do away with clause 15 which empowers the workers to give 15 days' notice to the employer before they cause a strike and I think it is a welcome provision. Mr. Joshi is very much opposed to the new clause that has been introduced for section 16. I am not a lawyer but as a man of common sense I claim that the new clause 16 is better than the old section 16 because it provides that no such notification shall be issued unless on or before the date of issue the Governor General in Council or the Local Government, as the case may be, shall appoint a court of inquiry or a board of conciliation. Sir, what the workers of India were agitating for is that the Government of India and the Local Governments have so far failed to appoint these courts of inquiry or boards of conciliation. When this proviso is there in the new clause 16 the Labour



[Mr. B. Das.]

spokesmen ought to welcome it. Although I do not like the exact draft, there are certain points on which the industrial community will express their opinions at the proper time, but it has made strikes illegal and also lock-outs illegal. I think my Honourable friend, Mr. Joshi, as the leader of labour in India (Mr. N. M. Joshi : "I do not claim to be one") will concede that illegal lock-outs should be inquired into. And when Government have found out a lacuna in the old Bill and are providing for an inquiry into illegal lock-outs, I think we should also welcome the principle, though not the draft. Sir, I am a peaceful man and I love industrial peace in India. I have seen transplanted ideas from Europe working havoc in India ; this is not the first time that I am expressing this view on the floor of the House, and I am repeating it again. Transplanted ideas from Europe have caused great trouble towards industrial regeneration in India. Indian industry is already competing with the mass production of European countries and Japan. And when mass produced articles are being dumped into India we cannot afford the luxury of experimenting in lightning strikes or sympathetic strikes. This is not a new view that I am expressing on the floor of the House ; I have always expressed this view for the last seven or eight years, during which I have welcomed labour legislation, whether introduced by my Honourable friend, Sir Frank Noyce, or his predecessor. I have blessed the introduction of labour legislations towards ameliorating the condition of the working classes ; but I will personally resent and oppose any idea of labour having a weapon in their hands so as to cause disruption and the stoppage of industrial activity in this country. If the industries do not thrive, the workers do not get any payment ; and if my Honourable friends who have spoken or will speak after me analyse the conditions of the steel workers at Jamshedpur, they will realise at what cost to the taxpayers of this country labour got that increment in wages which they got at Jamshedpur. Not only that ; I ask my Honourable friends also to remember the textile workers' strikes in India. It is no use talking always in terms of high wages and higher standard of living for workers. If index prices of food stuff and cost of living have gone down wages must go down, and my Honourable friends, Mr. Giri and Mr. Ranga, will no doubt attack me because they know my views in the Public Accounts Committee. And as for the railway workers.....

**Mr. N. M. Joshi :** Your knowledge of Bombay has become very old.

**Mr. B. Das :** The wages of the railway workers have not gone down. I know I will get a strong attack from my Honourable friend, Mr. Giri. If the workers in India belong to India, the employers of India also belong to India. And if we want industrial peace and industrial stability we should not think of lightning strikes but strikes should be used as a weapon in the hands of labour for proper redress of their real grievances and not imaginary grievances. The best antidote is conciliation and so I welcome the provision of conciliation officers in clause 11.

Sir, with these observations I support the motion for circulation. The Honourable Member for Industries and Labour said that this will be his last labour Bill and we will have other opportunities of speaking on his great services to labour in India. However, during the last 4½ years he has given more benefits to labour than he has given to his dual self—the industries. The industries have not benefited as much as labour has done by his arduous labours.



**Mr. G. Morgan** (Bengal : European) : Mr. President, I should like

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at the outset to associate myself with what the Honourable Mr. Joshi and Mr. Das remarked about the Honourable Member in charge of the Bill. We regret that he will not be here to carry on the labour legislation which he has so ably initiated. Sir, I will not follow my Honourable friends on the lines of the speeches they have made : especially the speech of my Honourable friend, Mr. Joshi, which seems to me to have been a speech that he could have delivered very well when the Bill was before the House for consideration. Sir, this motion now is merely for circulation, and as this Bill is being circulated for opinion this is not the time for making long speeches, and I shall not detain the House for more than a few minutes on the three points which I shall make.

The first point as the House will observe (Mr. Joshi will take an interest in this), is that under Clause 8 the Governor General in Council or the Local Government, as the case may be, are given power to notify any strike or lockout as illegal for two months if they are satisfied that the dispute has caused, is causing or is likely to cause serious and prolonged injury or hardship to the community, any section of the community, employers or workmen generally, or any class of employers or workmen. It is a condition attached to the exercise of this discretionary power that the strike or lockout cannot be notified as illegal unless it has been referred to a Court of Inquiry or a Board of Conciliation. These are very wide powers and I think it would be possible if this Clause were enacted as it stands today to notify any and every strike or lockout as illegal. It is true that the machinery for investigation into the dispute must be set in motion concurrently with the notification of illegality, and if the dispute is being inquired into there is perhaps no justification for continuing the strike or lockout and accordingly no injustice or hardship may be caused by declaring the strike or lockout to be illegal. What it amounts to appears to be simply this : We have undertaken to look into the cause of the dispute and we say that until the inquiry is completed the strike or lockout should be suspended. Nobody will object to that in principle.

**Pandit Lakshmi Kanta Maitra** (Presidency Division : Non-Muhammadan Rural) : Pending the period of enquiry, you mean ?

**Mr. G. Morgan** : Yes.

It is a course of action which might normally be expected to be observed in the case of any dispute, not necessarily in the case of strikes or lockouts, but in the case of disputes over property and so forth. Let us find out the rights of the matter in an orderly and dispassionate way and in the meantime let there be a suspension of hostilities. That, as I say, is a principle to which no objection can be taken. It is obviously fair and right.

The clause as drafted, however, seems to raise a constitutional question. It is a matter for doubt as to whether the Executive should be given discretion to declare on its own judgment a normal occurrence, as distinct from an emergency occurrence, to be illegal especially in view of the fact that once a thing is declared to be illegal the penalties

[Mr. G. Morgan.]

sanctioned by the law may be invoked. We agree that the existing section 16 of the Act is unsatisfactory in the sense that it unduly ties the hands of the Court in declaring an improper strike or lockout to be illegal. The proposed new section in the Bill, however, suffers from no such disability and very substantially widens the area of discretion. I do not want to enlarge on this aspect of the clause today because as the Bill is being circulated there will be ample time for all its implications to be considered. All I will say on this point is that if the Courts, instead of the Executive, were to exercise the much wider discretion which is proposed in the Bill the result would perhaps be just as satisfactory and any opposition which may be forthcoming to this clause as it stands today would disappear.

The second point I have to make is concerned with clause 9, which amends section 17 of the Act. Section 17, as amended, would appear to render any person who commences a strike or lockout declared to be illegal under the provisions of the proposed new section 16, automatically punishable with imprisonment or fine. Taking the proposed new section 16 and the amended section 17 together there would appear to be some doubt as to when a strike declared to be illegal by either the Central or the Provincial Governments can be said to have commenced. Suppose a strike is commenced for the purpose of furthering a trade dispute. Such a strike will be perfectly legal until it is notified as illegal on one or other of the grounds set out in proposed new Section 16, but the question then arises whether, for the purposes of the penalties in Section 17, the strike commences from the moment it is notified as illegal or whether it commences from the date it may actually have begun. If the latter is the case then the section as amended gives no protection to those who commence or take part in a strike believing their action to be perfectly legal until a week, ten days or a fortnight later, it is declared by a notification to be illegal. This is obviously not the intention of the Bill, but I think it should be made clear beyond any reasonable doubt that the liability of persons to the penalties in Section 17 only becomes operative from the commencement of the notification of the illegality of a strike and not from the actual commencement of a strike which has subsequently become illegal.

The third point I wish to make relates to clause 11. I am in some doubt as to whether the wording of this clause which gives power to appoint Conciliation Officers charged with the duty of preventing, mediating in or settling trade disputes may not be interpreted too widely in the rules to be framed under the Act and may result in Conciliation Officers being given arbitrary powers to settle trade disputes in a manner favourable to one party. The effect of this clause appears to depend on the rules to be framed under it, and it appears that such rules can be prescribed by Government *without previous publication for criticism*. The House will find if it looks at Chapter 18 of the Report of the Whitley Commission on Labour in India that the intention of the recommendations of that Commission was that Conciliation Officers should attempt to bring the parties to an agreement rather than to pass and enforce orders not agreed to by both parties. It seems to me that it might be better if, for the word "settling" in Section 18A (1) the words "promoting the settlement of" were to be substituted. Then,

Sir, I think it should be made clear in the Bill that the power which it is sought to give Conciliation Officers to enter premises and inspect any document, if it is desirable that they should have that power, then it should be clearly restricted to those premises, or part of the premises, and documents which are directly relevant to the dispute.

As the clause is framed, a Conciliation Officer would appear to have a general roving commission to inspect anything and everything connected with an industry, business or undertaking.

Finally, Sir, as the Bill is being circulated, it would perhaps not be inappropriate if I were to mention that we should have liked to have seen some attempt made to deal with the question of picketing and intimidation on the lines of section 3 of the English Act of 1927. The question of "stay in" strikes, which have now become one of the usual strike methods, is also one which seems to merit some attention. However, Sir, apart from the points I have mentioned, I support the motion before the House and we certainly welcome the facility which the Bill provides for including inland steam vessel services in the list of Public Utility Services for the purposes of section 15 of the Act. Sir, I support the motion.

**Mr. V. V. Giri** (*Ganjam cum Vizagapatam : Non-Muhammadian Rural*) : I support the motion for circulation, but I am bound to express the views of the organised workers and unions in this country about the merits of the Bill. Sir, I realise at the fag end of the day, almost at the fag end of the Session, with empty benches before me and behind me, it is not indeed a bright prospect to make a lengthy speech on a dry subject like the Trade Disputes Act. However, Sir, when I address this House I not only address the Honourable colleagues of mine in this House but I address as well the hundreds and thousands of comrades who work outside this House for the benefit of the humanity in the world. I desire, Sir, to briefly describe the history of the legislation before the enactment of the Act of 1929 and after it. In or about the year 1918, there was great industrial unrest in this country and the Government of India thought it desirable to introduce a Bill on the lines of the Industrial Disputes Act of England but on account of the diminution of the strikes and disputes there was a decrease in the interest taken by the Government on behalf of the workers. There was a "masterly inactivity" on the part of the Government of India to do anything towards legislating a measure. It was in the year 1924 when a big strike in Bombay occurred in the textile mills that the Government of Bombay wanted to introduce legislation but under the instructions of the Government of India who wanted to have legislation of an all-India character that Bill was dropped. Again, Sir, in the years 1927 and 1928 there were again serious disputes both on the railways as well as in the textile industry and elsewhere and it was in the year 1928 that the Government of India introduced a Bill for the purpose of enacting a Trade Disputes Act. On the 12th April, 1929, the world witnesses the passing of the Trade Disputes Act and I am bound to say that it was a mountain in labour which verily produced the proverbial mouse. I will now refer to the conduct of the Government of India in the way in which they have utilised this Act for the benefit of the workers. I

[Mr. V. V. Giri.]

shall refer to the figures on the subject of strikes and lock-outs in India from the year 1921 to the year 1935.

Year.	No. of Strikes and lock-outs.	No. of people involved.	No. of days lost.
1921 .. .. .	396	600,351	6,984,426
1922 .. .. .	278	435,434	3,972,727
1923 .. .. .	213	301,044	5,051,704
1924 .. .. .	133	312,462	8,730,918
1925 .. .. .	134	270,423	12,578,129
1926 .. .. .	128	186,811	1,097,478
1927 .. .. .	129	131,655	2,019,970
1928 .. .. .	203	501,851	31,674,404
1929 .. .. .	141	532,016	12,165,691
1930 .. .. .	148	196,301	2,261,731
1931 .. .. .	166	203,008	2,408,123
1932 .. .. .	118	128,099	1,922,437
1933 .. .. .	146	164,938	2,168,961

For 1934 and 1935, the Honourable Member recently gave figures of the number of strikes. They were 159 strikes in 1934 and 145 in 1935.

Let us see in how many strikes the machinery of the Trade Disputes Act was utilised. It is not more than five cases in which this Act was brought into operation. Therefore, Sir, hundreds and thousands of families have suffered during these years on account of the non-application of this conciliation machinery and if there has been starvation consequently or destitution due to the loss of service of the wage earner, the sin for this lies on the head of the Government of India. Now, Sir, I would like to compare and contrast the Canadian Act with the Act that we had and the way in which the Canadian legislation was used for the benefit of the workers. I shall refer to a few passages in a book entitled 'Postponing Strikes'. On page 15 of that book, in the Foreword, it was stated as follows :

"The outstanding fact in the present study is that the attitude of the Canadian Labour towards the Act has had two phases, that the first which was a period of opposition was very nearly over in 1916. During the recent years of the world war and since, Canadian Labour supported the Act and urged its extension to other industries. It is true today that conciliation is the dominant feature of the administration of the law. It is the interpretation of the law by the method and the spirit of its administration which has won the spirit of labour. Instead of threatening penalties, (I want the House to bear this in

mind), the Canadian Department of Labour has used the Act as a means of bringing employers and employees together for conference under the auspices of the Government to enable them to lessen or to settle their differences."

Sir, let us now examine the statistics mentioned in this book regarding Trade Disputes in Canada and as to how they were settled during the period beginning with March 1907 and ending with the 31st March, 1925. It has been stated that in 18 years, 640 applications were made for Boards of Conciliation and investigation, 536 cases out of which were handled under the Act. 421 boards were actually constituted while well over half of the reports were unanimous. Out of 536 cases in ninety-one per cent. of the cases the strike was averted or ended.

Sir, one is bound to exclaim—"look at this picture and that!": and there cannot be a greater condemnation of the Government of India who have placed on the Statute-book an Act which was almost innocuous and never used for the benefit of the workers. Sir, the workers in India, after this performance of the part of the Government of India, have no faith in their *bona fides* and it is the considered view of the organized workers that if at all, and if at any time this machinery was brought into force, it was only to prevent a successful strike and nothing more and nothing less. The first point, therefore, Sir, I would like to impress on the Government of India is that this Bill will not be worth the paper on which it is written unless the workers are guaranteed courts of inquiry or conciliation boards provided either of the parties to the dispute make an application under the Act. It may be stated that they might be frivolous applications put forward for the constitution of a court of inquiry or a conciliation board. The only remedy for that complaint is in authorising the High Court or a district court before whom is placed the dispute or the threatened dispute that is likely to happen to go into the matter and state further whether there is any *prima facie* case made out for investigation of the dispute. That will avoid all kinds of frivolous applications and therefore I am bound to say that unless this Bill authorises the appointment of a court of inquiry or a conciliation board whenever either party to the dispute wants an application of the Act, unless that is done this Bill will not be considered satisfactory. It may be felt by the Government—what would be the position if neither of the parties apply, and when the Government feel that there is going to be a serious menace to the community? Then, the Government have the right now and they can use the right to appoint a court of inquiry or a conciliation board. We are absolutely against any penalties being imposed. I maintain, on behalf of the workers, that the weapon of a strike is an inherent right of the workers which cannot be bartered away, and therefore the workers will not be agreeable to any penalties being imposed. (Hear, hear.) It may be the idea of the Government to prevent political strikes. Sir, I am bound to express the views here of the workers in this matter. So far as the workers are concerned, they are citizens first, and then workers (Hear, hear): and if, to-morrow, a political upheaval takes place, whether the Government like it or not, they are bound to take part in a political strike. (Hear, hear.)

Sir, after all, India is in a peculiar position, and India is a subject-country. As every nation would like to have absolute political independence, so also India would like to have it (Hear, hear), and how can workers say that they have nothing to do with politics, when they are citizens of this country? (Hear, hear.) Sir, if any attempt is made

[Mr. V. V. Giri.]

to stifle political strikes, the greater the intensity of the penalties imposed, the greater will be the intensity of such political strikes. (Hear, near.) I can assure you this, that I am one of those who believe that the workers need not dabble in politics day in and day out, but, under no circumstances, neither the Government of India nor anybody else can prevent political strikes being joined in by the workers, when a big political upheaval—which happens not every day, not every year but probably once in twenty years or so—takes place : and the only way that political strikes can be prevented—and now I am addressing my remarks not only to my Honourable friend, Sir Frank Noyce, but the whole of the Treasury Benches—is by concessions being made to the demands made by the nation as a whole, in which the workers may certainly be involved, and from which they can never be prevented from taking their part. Now, Sir, I would like to state the position about the railway workers. Certain suggestions have been made by the Royal Commission on Labour with regard to the constitution of a conciliation machinery.

Sir, it is unfortunate in this country that Royal Commissions only come in when there is a great unrest in the country, and Royal Commissions go and after that Royal Commissioners come in again and the recommendations will then become Royal “omissions”. (Hear, hear.) As regards railway workers, the Royal Commission made specific recommendations with respect to the conciliation machinery at page 168 of their report. It is relevant that I should read a few lines from those recommendations and ask the Honourable Member-in-charge of Industries and Labour why this has not been incorporated in the Bill. Sir, they have stated as follows :

“The Indian Railway Conference Association and the All-India Railwaymen's Federation are bodies whereby a Joint Standing Central Board can be formed in the best interests of all concerned. We therefore recommend the introduction of machinery for dealing with industrial relations on railways which will provide for the constitution of a Joint Standing Central Board to which representatives of the Agents and of the workers should be elected in equal proportions. Taking existing organisations into account, we recommend that the representatives of the Agents should be elected by the Indian Railway Conference Association and those of the workers by the All-India Railwaymen's Federation.... The Chairman and Vice-Chairman should be appointed by and from the members forming the Central Board, suitable arrangements being made for the carrying out of secretarial duties.... The functions of the proposed Joint Standing Central Board should be to consider, and where possible, to effect a settlement of general questions common to all railways and of matters common to one or more grades of labour, where it has not been found possible to reach agreement in the Railway Councils of individual systems. Such differences would come up automatically before the Central Board, which would also receive and consider joint references from Railway Councils. Where a dispute is apprehended on any railway, if the matter is not capable of settlement by its Railway Council, it should be referred automatically to the Central Board, it being agreed that no stoppage of labour either by strike or lock-out should take place pending consideration by the Central Board or, in the event of failure to reach agreement, pending the decision of the Tribunal to be set up.

In the event of the Central Board failing to reach agreement, we recommend that, if either party so desires, the dispute should be referred to a Tribunal. We suggest that this Tribunal be composed of five representatives from each side of the Central Board, together with other five persons from outside, unconnected with railway administration or railway workers or their associations. Of the latter, two should be nominated by each side of the Central Board, and the fifth and last member should be selected by both sides of the Board to act as an independent Chairman : failing an agreed nomination, the Chairman should be appointed by the Government of India.”

Sir, there were meetings between the Railwaymen's Federation and the Railway Board on this subject for nearly three years at their various half-yearly meetings and the Railwaymen's Federation agreed with the recommendations of the Royal Commission on Labour with certain modifications, but unfortunately we do not find any inkling of these suggestions having been accepted by the Government and incorporated in the Bill. I quite agree with the Honourable Mr. Clow—who made a very good speech recently in the Council of State—that in order to have a healthy organization of labour, it is necessary to understand the labour point of view and try to improve the trade union movement in this country ; and I think it is better to read one or two lines from his speech, with which I entirely agree :

“ I am convinced that this need for collective expression is there and must be met. We must recognize that labour must state its case somehow, and we must recognize more than that ; we must recognize that it is not merely a commodity hired for the purpose of carrying on an enterprise, but it is a living part of the enterprise and that it is contributing to that every bit as much, as some would say more than the shareholders.”

But as the Englishman would put it in a colloquial way, the proof of the pudding is in the eating and I am sorry to say that professions and practices did not agree up-to-date. Any way, I think very soon we shall be testing the *bona fides* of the Department of Labour and Industries whether their professions and practices agree in this matter. I need not tell the House now what we are going to do. I do not wish to take more time of the House nor do I wish to unnecessarily traverse over the points that have been raised by my Honourable friend, Mr. Joshi, who has analysed the various sections of this amending Bill.

The only points that I would like to put forward before I conclude my speech are these. I would like, in the first place, to say a word or two about the conciliation officers. Our experience on the Railways is very sad and disappointing. It may be that these welfare officers are the creatures of the railways in the sense that they are the servants of the railway, guided by the Agent and by the heads of departments. I do not object to the appointment of Conciliation officers but their success depends on the men that you secure. Moreover, it must be remembered that these men must be absolutely independent of the industry and at the same time their integrity and sympathy for the cause of workers will be definite factors that will decide whether a Conciliation officer would make a good officer. I quite agree with what the Royal Commission on Labour have said on page 347. They say :

“ There are frequent occasions when the tactful and experienced official can assist by bringing the parties together, or by putting before either party aspects of the other's case which may have been overlooked, or even by suggesting possible lines of compromise.”

I am also glad that the discharged workmen are considered as workers or as workmen for the purpose of the Trade Disputes Act. In fact, in the case of the tinsplate strike that occurred in 1928 or the Model Mills strike at Nagpur that occurred in 1932, it was found that the employers dismissed all the workers and said that there was no dispute because there were no workmen. I am glad that in this amending Bill we find it remedied.

[Mr. V. V. Giri.]

In conclusion, I would like to suggest the following points to be remembered by the Government in amending this Bill :

- (1) A trade dispute should include any dispute between a registered trade union and an employer so that a trade union may be legally recognised as a party to the dispute.
- (2) Automatic reference to a Board or Court must be made on the request of either party to a dispute or apprehended dispute, provided, of course, it is proved *prima facie* that the preliminary conditions for a *bona fide* dispute are satisfied.

On the model of the Canadian legislation, an employer should not be empowered to alter the conditions of service without the agreement of the workers, without one month's notice and without reference to a conciliation machinery if so required by the workers or by their organisations. My view is that section 17 and also relevant portions of other sections should be omitted so that strikes for securing political rights or otherwise may not be penalised. Refusal to employ any person for being a member of a registered trade union or its office bearer should be made illegal. I have no more to add but I do hope that the Honourable Member in charge of Industries and Labour will consider some of the aspects that have been raised by my Honourable friend, Mr. Joshi, and myself.

**Several Honourable Members :** The question may now be put.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is that the question be now put.

The motion was adopted.

**The Honourable Sir Frank Noyce :** Sir, I propose to take the hint you gave to my Honourable friend, Mr. Joshi, just now, that this is not the time for detailed discussion of the clauses of this Bill. The House will have ample opportunity for such discussion at two later stages, when the Bill is before the Select Committee and when the report of the Select Committee comes up for consideration in this House. I, therefore, propose to confine myself only to a few points arising out of the discussion this afternoon. I was not surprised to hear from my Honourable friend, Mr. Joshi, that he regards this Bill as hostile to the interests of the working classes. My Honourable friend, Mr. Das, whose support for the principles of the Bill I should like gratefully to acknowledge, referred to me as the Labour Member. That description is, I think, perfectly correct. I would ask the House whether it is likely that towards the end of my term of office, which, as Mr. Joshi himself admits, has been marked by much legislation in favour of the working classes, I should be willing to put before this House a measure which is in any way hostile to their interests. I am at any rate grateful, to my friend, Mr. Joshi, that he did not describe this Bill as "reactionary". I take it that all that he meant to convey in his usual fashion was that this Bill does not go nearly as far as he would like it to do. There is, however, one statement made by Mr. Joshi which I should like very strongly to repudiate. He said more than once in the course of his speech that Local Governments have tried to break strikes by all the powers that they possess instead of using the machinery provided by this Act. I repudiate that suggestion. He did not bring forward any concrete instances in support of it except the general strike in Bombay. To bring that a wholesale accusation of that character against all Local Governments



is, I submit, quite unjustified. I am not going to argue the merits of the Bombay case. I could say a good deal about it if time permitted. In any case, I would point out to my Honourable friend, Mr. Joshi, that after the 1st of April next Labour will be dealt with entirely by autonomous governments and I can only hope that, from his point of view, that will prove more satisfactory than he thinks the Government of India have been.

One point that was raised both by him and by my Honourable friend, Mr. Giri, was that there have been a very large number of strikes and trade disputes in the course of the last few years and that in only three cases according to Mr. Joshi and in five cases according to Mr. Giri have Courts of Inquiry or Boards of Conciliation been appointed. My Honourable friend, Mr. Giri, entirely forgot to mention the number of cases in which such a Board or Court has been applied for. I cannot give him the figures off-hand, but I think it is very small indeed, well under twenty. I cannot see the justice of the charge against the Government of India or the Local Governments that the number of the Boards of Conciliation or the Courts of Inquiry should have been very much larger when the number of applications for them was so small. My Honourable friend compares the number of Courts or Boards appointed with the number of strikes not with the number of applications. I submit that that is a very unfair method of comparison. My Honourable friend, Mr. Giri, would like the reference to Courts of Inquiry or Boards of Conciliation made automatic on the application of one party only to the dispute.

**Mr. V. V. Giri :** I said either party.

**The Honourable Sir Frank Noyce :** I admit he is perfectly fair there. I dealt with that point in my opening speech and I can only repeat that the object of these Courts of Inquiry or Boards of Conciliation is to secure a settlement of the dispute. It is not the least use appointing a Board or a Court unless you can be fairly sure that its award is going to be accepted because our machinery, as I explained, does not provide for the enforcement of the award. It is for that reason that the Act insists that the reference to the Board or a Court should only be compulsory if both parties apply and that it should be entirely optional if only one party applies. I would repeat that the object of the provisions regarding conciliation is to ensure the settlement of disputes as far as possible and the appointment of a tribunal must depend not so much on the intrinsic strength of the several parties as upon the likelihood that the award of the tribunal will be able to secure an end of the dispute. This is the reason why I am unable to accept Mr. Giri's contention that the reference to the Board or Court should be automatic.

My Honourable friend, Mr. Joshi, wasted—I should not perhaps have said wasted, I should have said spent—a great deal of sympathy on workers in public utility services. It would be interesting to know how many strikes there have been in such services during the last few years.....

**Mr. N. M. Joshi :** When you make strikes illegal how can there be strikes ?

**The Honourable Sir Frank Noyce :** My Honourable friend is suffering from a confusion of thought which I admit is not entirely unjustified. What is illegal under the existing Act is going on strike in a public utility service without a fortnight's notice. That is illegal. If my Honourable friend will look at the headings of the different parts of the present Act,

[Sir Frank Noyce.]

He will see that the heading of section 15 is "Special provision regarding Public Utility Services." The heading of section 16 is "Special provision for Illegal Strikes and Lock-outs." There is, I submit, an essential difference between the two. The mere fact that a man in a public utility service withdraws his services without a fortnight's notice does not make him an illegal striker. As I have said, my Honourable friend, Mr. Joshi, is suffering from a confusion of thought. The worker in a public utility service, under our new provisions, is in exactly the same position as the worker in ordinary employment as regards an illegal strike, though he still remains subject to a penalty if he withdraws his work without notice. Suppose there are a thousand people in a public utility service and they withdraw their services without a fortnight's notice, every one of them is liable to a penalty for an illegal act, but they are not guilty of an illegal strike. The strike does not become illegal until the Government have actually declared it so. My Honourable friend, Mr. Joshi, may shake his head, but I would assure him that that is the exact position. They are in no worse position under this Act than they are under the present Act.

**Mr. N. M. Joshi :** I did not say they are in worse position.

**The Honourable Sir Frank Noyce :** Put in another way, they are in a better position because if the Government declare their strike illegal, they have to appoint a Board to go into their grievances. The point which my Honourable friend was quite justified in bringing out is that we have not accepted the view of the Royal Commission on Labour in regard to public utility services. The Royal Commission on Labour, as he said, stated that the weakest point in the Indian condition was that, while it restricted the powers of workers in public utility services to coerce their employers, it gave in return no assurance that their grievances would receive a hearing. There is a certain amount of assurance now because obviously if a strike were on an extensive scale, the Government would declare it illegal and appoint a Court or a Board to go into grievances. We have not accepted the suggestion of the Royal Commission on Labour in this respect because we feel that the only restriction imposed by section 15 on employees lies in the requirement of fourteen days' notice and we do not consider this by itself can be regarded as warranting the conferment of the right to official investigation on any differences that may arise. The further safeguards suggested by the Commission are, as the Commission themselves recognise, unlikely to afford complete protection against the serious dangers to which they refer. That is the reason why we have not made a reference to a Board or to the Court obligatory in the case of public utility services. I hope it will be regarded as a sufficient reason. In regard to workers in public utility services, in spite of Mr. Joshi's view to the contrary, I would repeat that they are covered by clause 8 exactly to the same extent as the workers in the other services. My Honourable friend, Mr. Joshi, considers that the new clause 8 as drafted is too wide. That is a matter which can be gone into in the Select Committee. It is one on which we shall doubtless receive a volume of opinion,—I must candidly admit that it has been intentionally drawn wide in order to protect the interests of the community. In debates on protection in this House, we often hear complaints that the interests of the consumers are neglected. In just the same way in our debates on labour questions and in discussing the workmen's inherent right to create lightning strikes, there is a tendency to forget that workers.

like those who benefit from protection, are only one section of the community, that other sections of the community are involved and that those sections, not unnaturally, have their inherent right to object to being held up to ransom.

My Honourable friend, Mr. Morgan, raised a few points of detail. I can assure him that these will be duly considered. I think there is considerable force in his view that the amendment suggested in clause 9 needs re-examination. I would assure him that there is no intention of altering the intention of section 17 to which he refers and that the object of the clause continues to be to get at the instigator and inciter. As regards publication, that is a very small point ; but I think he has overlooked the fact that section 19 of the present Act provides what he wants. Sub-clause (4) of the new clause 18-A provides that the powers, functions and procedure of conciliation officers shall be such as may be prescribed by rules made under section 19. If he will refer to section 19 (3) of the present Act he will see that all rules under this section shall be published in the Gazette of India or the local official Gazette, as the case may be. I trust that satisfies him on that head.

I am aware, Sir, that I have very inadequately covered the points raised in a valuable discussion on a very important measure, but I think I have detained the House quite sufficiently long. I have no doubt that the opinions and criticisms we receive will lead to a revision in some probably important respects of the measure placed before this House. I can assure the House that they will be received by Government with an open and sympathetic mind. Our object is, as I am sure is the object of the House, to ensure that this measure shall really be of value in promoting industrial peace. That, as I said, at the end of my opening speech, has been the sole object with which we have brought it forward. (Applause.)

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That the Bill further to amend the Trade Disputes Act, 1929, for certain purposes, be circulated for the purpose of eliciting opinion thereon.”

The motion was adopted.

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## STATEMENT OF BUSINESS.

**The Honourable Sir Frank Noyce** (Member for Industries and Labour) : Sir, we have received representations to the effect that there is a general desire that time should be given to Dr. Deshmukh to move, during the present Session, for the reference to Select Committee of his Hindu Women's Right to Property Bill, and we are assured that the motion will be uncontroversial. Subject to realisation of the conditions on which I agreed yesterday to time being given for the Ajmer Durgah Bill, namely, that Government business is concluded on Thursday and that the House then manifests a desire to continue sitting for the Bill on Friday, we will be prepared to allow Dr. Deshmukh to move his motion on Friday after disposal of the Durgah Bill. I also ask for your direction, Sir, on the question raised yesterday, namely, whether the House will sit

[Sir Frank Noyce.]

tomorrow. In view of the progress made today, I do not press for a meeting tomorrow.

**Mr. President** (The Honourable Sir Abdur Rahim) : I understand that it is the general desire of a very large section of the House that there should be no meeting tomorrow. I therefore, direct that there will be no meeting of the Assembly tomorrow.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 15th October, 1936.