

14th September, 1933

THE

LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

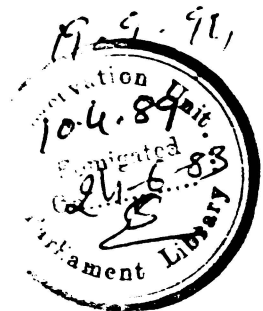
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(5th September to 14th September, 1933)

SIXTH SESSION

OF THE

FOURTH LEGISLATIVE ASSEMBLY,
1933



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Legislative Assembly.

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THE HONOURABLE SIR SHANMUKHAM CHETTY, K.C.I.E.

Deputy President :

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

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MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

Assistant of the Secretary :

RAI BAHADUR D. DUTT.

Marshal :

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

Committee on Public Petitions :

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

MR. B. SITARAMARAJU, M.L.A.

MR. GAYA PRASAD SINGH, M.L.A.

KUNWAR HAJEE ISMAIL ALI KHAN, O.B.E., M.L.A.

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LEGISLATIVE ASSEMBLY.

Thursday, 14th September, 1933.

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

MESSAGE FROM THE COUNCIL OF STATE.

Secretary of the Assembly : Sir, the following Message has been received from the Council of State :

“ I am directed to inform you that, at the meeting of the Council of State, held on the 13th September, 1933, the Council rejected the motion that the Bill to prevent Juveniles from smoking Tobacco, as passed by the Legislative Assembly, be taken into consideration.”

THE IMPERIAL BANK OF INDIA (AMENDMENT) BILL.

The Honourable Sir George Schuster (Finance Member) : Sir, I move :

“ That this Assembly do recommend to the Council of State that the Bill further to amend the Imperial Bank of India Act, 1920, for certain purposes, be referred to a Joint Committee of this Assembly and of the Council of State, with instructions to report on or before the 20th November, 1933, and that the Joint Committee do consist of 28 members.”

With your permission, I have inserted the number 28 in the motion which I have just moved instead of 24 which stands in the notice paper for today. Sir, I trust the House will consider it unnecessary to debate this motion, because we regard it as essentially part of the plan which was dealt with in the motion which was moved yesterday. Our purpose is to get a Joint Committee set up for dealing with the Imperial Bank of India (Amendment) Bill at the same time as the Reserve Bank of India Bill, and we trust that this House, when the time comes, will approve that the same Committee should deal with both Bills. Sir, I move.

Mr. President (The Honourable Sir Shanmukham Chetty) : Motion moved :

“ That this Assembly do recommend to the Council of State that the Bill further to amend the Imperial Bank of India Act, 1920, for certain purposes, be referred to a Joint Committee of this Assembly and of the Council of State, with instructions to report on or before the 20th November, 1933, and that the Joint Committee do consist of 28 members.”

Mr. Vidya Sagar Pandya (Madras : Indian Commerce) : Sir, before I speak on the merits of this Imperial Bank of India (Amendment) Bill, I feel that I owe an apology to the Honourable the Finance Member for being absent yesterday when he spoke on his motion. When I had made my criticisms on his Reserve Bank of India Bill the other day, it was my duty to be present to listen to what he had to say in reply, though, under the present constitution, I recognise that I had no right of reply. I had taken permission from the Leader of my Party to stay away, as

[Mr. Vidya Sagar Pandya.]

we were under the impression that the discussion on the Bill would continue till at least this morning. However, I made a mistake, and I apologise to the Honourable the Finance Member for my absence.

Sir, I do not propose to utilise this occasion to reply to some of the criticisms of the Honourable the Finance Member, but, as I speak on the present motion, I shall try to explain how he has misunderstood me in certain matters.

Sir, the Imperial Bank of India Act of 1920 is so badly drafted that when I had the occasion to ask two of the Finance Members of the Government of India as to what they thought about the Act, they both said that it was not possible for them to make either head or tail of it. It is so confusedly drafted that it is very difficult to be understood by lay men, and when even Finance Members of the Government of India find it difficult to understand it, you can imagine, Sir, how difficult it will be, for ordinary mortals, to understand it. In the present drafting of the Bill, though many important improvements could have been effected, I find that no attempt has been made to improve it at all. For instance, there are nearly 12 or 15 clauses which are absolutely redundant at present. It would have been better if they had overhauled the whole Act and re-drafted it wholesale. What is the use of retaining in the present Imperial Bank of India (Amendment) Bill the clauses which related to the original amalgamation and the first distribution of shares to the shareholders and other things which do not apply to the present position. All that should have been removed and the Bill should have been drafted in such a form that it could be understood by those who cared to read it. As such, I hope the Joint Select Committee, when they meet at Delhi, will give some attention to this matter and put the Bill in such a form that it will really serve the purpose for which it is intended.

Now, Sir, coming to the Bill and the clauses, it will be a sigh of relief to several banks—indigenous banks in India—that this mother-in-law of all banks.....

An Honourable Member : Step mother-in-law.

Mr. Vidya Sagar Pandya : All right, call it step mother-in-law if you like, of all banks in this country is now going to be deprived of some of her power and prestige which she was not using properly, because, in these days of reform, the daughters-in-law do not want to be governed in that high-handed manner in which the Imperial Bank of India has been treating them, especially the Indian banking institutions in this country. Now, the Indian Joint Stock Banks must be allowed to have a free hand in their working without the obstacles put by the Imperial Bank in the past. When the Indian banking institutions have asked for the bread, the Imperial Bank has given them a stone. Now, what I urge is that the Imperial Bank should no longer work under false colours. We must make it distinctly clear that the Imperial Bank, except that they are going to be the sole agents of the Reserve Bank of India, should not interfere with the Indian banking institutions, and the public should not get a false impression that it is still a Government Bank. Unfortunately, in India, we have got a weakness for things which are connected with Government, but, hereafter, all the business of local boards, municipalities, Courts of Wards, High Courts, etc., should be given either to all the banks alike according to their soundness and position, or entirely to the Reserve Bank. We do not want the Imperial Bank to be

constituted in such a way that it will get all the Government business. Though in some matters there is no specific direction that the funds should be invested in the Imperial Bank, there have been occasions on which their friends in several places have taken advantage of even misrepresenting matters and compelling the parties to put their money in the Imperial Bank. If you will permit me, I will give you an instance. Two parties, when they quarrelled, went to the High Court of Madras, and it is usual that, when there is such dispute, the money is put in some bank till the case is disposed of. Now, one of the parties proposed that the money should be deposited in one of the Indian banks. The Judge said : " Well, it is the practice to put the money only in the Imperial Bank ". The Vakil for the other side said : " I agree to the money being put in the Indian institution where it will earn interest safely. Both the parties agreed, and the Judge then remarked, " I am also prepared to agree to it ". But the Registrar of the High Court said : " It has never been the practice to put such monies anywhere except in the Imperial Bank " ; he repeated that " the money can only be invested in the Imperial Bank and in no other bank ". The Judge told the Registrar : " I give you some time to look up the rules and show me any provision where, when both the parties agree and the Judge also agrees, it is provided that the money should be put only in the Imperial Bank and in no other bank ". The Registrar looked up the rules and regulations, but found nothing to support him. As a result of this, the money was deposited with an Indian institution while all along the impression was that the money should be put only with the Imperial Bank. Subsequently, I understand that there has been issued a confidential circular letter to some departments from some authority that parties should be made to keep their money with the Imperial Bank only. As such I request that the matter should be made so clear that the people may not be misled in these things and the indigenous institutions may not suffer on account of any wrong impression created by the close connection with the Government, and the old prestige the Imperial Bank has enjoyed for these so many years.

Now, Sir, the wording of the new amendment is such that practically the Imperial Bank will do the business of the Government though as the agent of the Reserve Bank. What I wish to know is, if, there is any mishap to the Imperial Bank, the loss would be recovered by the Government from the Reserve Bank or the Government stand to lose, whether it is the joint liability of the Imperial Bank and the Reserve Bank, for the Imperial Bank is going to be the sole agent of the Reserve Bank and the public must deal only with the Imperial Bank, it being the sole agents of the Reserve Bank. The position should be made absolutely clear so that the public may not misunderstand that the Imperial Bank is a Government Bank, as in the case of the Bank of Bombay, when it failed, the shareholders went up to the Privy Council and said that the Government had identified themselves so much with the Bank of Bombay that they were entitled to claim compensation from the Government for its mismanagement. I hope the Bank will also hereafter not style them in their advertisements, as they have been doing, " The Imperial Bank of India, Bankers to the Government of India ". I won't go to the extent of suggesting that there should be a change of name of the Imperial Bank, because, in other countries, the words " Royal ", " Imperial ", when attached to a bank, have been considered as if it is a Government or Central Bank. Only I

[Mr. Vidya Sagar Pandya.]

want that there should be no misunderstanding in such matters in the future.

Now, Sir, the Imperial Bank of India, for the concessions they are going to get under the new arrangements, should be made to render some more national public service. Neither in the Reserve Bank Bill nor in the present Imperial Bank of India (Amendment) Bill is there anything to compel the Imperial Bank to give us remittances at any particular rates. In the matter of remittances they have been making distinctions. The Bank has till now been working under certain restrictions. Now, those restrictions are to be removed. We know how muzzling is helpful and saves the public from inconvenience and injury. Now, under the present Bill, they are going to be allowed to do exchange business without any hindrance. They can open branches, and some of the restrictions, regarding the investment of funds, have also been removed. As such, the Bank will be a very formidable rival to the Indian institutions. Added to that, they will get a commission calculated on the total of receipts and disbursements dealt with annually on account of the Government of India by the Imperial Bank on behalf of the Reserve Bank of India. We have heard about charging a certain commission on debit balances, but not on both debit and credit balances, as the Schedule now contemplates giving 1½ per cent. on the first 250 crores and 1⅓ per cent. on the remainder, on both payments and receipts. That is rather very unusual. In the past, they had been opening branches at stations where there were branches already of other banks. Formerly, they used to consult the Government of India before they opened any branches in any new places. Now, that restriction is being removed, and it will be open to them to go on opening branches anywhere they like and in some places it may be difficult for the indigenous banks to go on with their business in the face of the competition from the Imperial Bank which enjoys so many privileges and concessions.

Speaking about the connection with the Government, even in the clauses of this Bill, as amended, the notifications and other information which they have to give to the public is done only through the Government of India Gazette. All the notices of meetings and transfers of officers from one place to another are published by notifications in the Government Gazette. In one of the clauses, as it has been drafted, the notices are to be published in local newspapers in English and vernacular. I would suggest that these notices should be given entirely in the newspapers. Of course if they wish to insert notices also in the Gazette of India....

Mr. President (The Honourable Sir Shanmukham Chetty) : The Chair would remind the Honourable Member that, under Standing Order 39, at this stage the House can discuss only the general principles of the Bill and not go into such details as to what papers must be chosen as the medium of advertisement.

Mr. Vidya Sagar Pandya : My object was to show that they wish to continue to exploit the prestige of their connection with the Government, by confining themselves entirely to the Government Gazette.

Then, I come to another complaint and that has not been set right in the Bill. In a Shareholders' Bank, there are certain difficulties in obtaining the copies of the Shareholders' Registers. The cost at the rate of six annas per hundred words is prohibitive. The result is that it is

not possible for the shareholders to take concerted action even if they so desire. As such, the Bill requires amendment in that direction so that the shareholders may be able to exercise their right to the full extent as they should.

I need not speak about the Directors of the Imperial Bank. I have already spoken enough. The Honourable the Finance Member yesterday accused me of 'a general exercise in mud slinging at Directors of Banks, past, present and future'.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : He also accused you of shortsightedness.

Mr. Vidya Sagar Pandya : Yes, a reply to it will come in its proper place. I am sorry that the Finance Member should have misunderstood me completely. When I spoke of it, I was referring to the system and not to the persons. I have got the highest regard for gentlemen like Sir Purshotamdas Thakurdas, the Honourable Sir Maneckji Dadabhoy and another gentleman whom he had mentioned. I have got the highest regard for them. What I was trying to explain was the system under which the seats on the Boards of the Imperial Bank became a life tenure and monopoly of certain firms and community. Some of the firms have for more than 50 years been sending up only their partners to fill up the gaps and nobody else. I do not think that all the banking experience and knowledge is a monopoly of only the partners of only seven particular firms on each Board. When I objected to certain nominations by the Government, I did it more on account of the way in which they were made, not on account of the persons. There is no reason why the Government of India should allow only superannuated gentlemen to continue so long. In all Government departments men retire after a certain age. Viceroy, Governors and Executive Councillors even go out after a certain period. Some of the Directors were not physically fit even to attend any meetings and they were being continuously nominated from year to year without any change. Now, I want to know how many of them regularly attended the meetings. These gentlemen are as old as 80 or 90 years.

Mr. President (The Honourable Sir Shanmukham Chetty) : Will the Honourable Member explain how all this is relevant to the present motion ?

Mr. Vidya Sagar Pandya : The point is that in spite of the representation made by the Chambers on the matter, the Government have not amended the Bill to remove those objections in the working of the Imperial Bank.

Mr. President (The Honourable Sir Shanmukham Chetty) : Order, order. It is perhaps well at this stage that the House should understand what exactly is the scope of the motion that we are discussing. We are not discussing the entire affairs of the Imperial Bank, nor are we discussing the whole of the Imperial Bank of India Act. The House must understand that position. The scope of the present Bill is confined to three points—to remove the control of the Governor General in Council over the affairs of the Imperial Bank in certain respects, secondly to remove certain restrictions imposed on the Imperial Bank's transaction of business under the Imperial Bank of India Act and, thirdly, to enable the Imperial Bank of India to enter into certain agreements with the Reserve Bank. The constitution of the Directorate of the Imperial Bank and other matters, not covered within the scope of this motion, are

[Mr. President.]

not relevant to the issue at present before the House, and Honourable Members will not be entitled to discuss the whole of the Imperial Bank of India Act.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : May I speak a few words on this point, Sir ? In view of the fact that we are sending the Reserve Bank Bill and the Imperial Bank Bill to the same Committee and also on account of the fact that the constitution of the Reserve Bank will be of the same type as that of the Imperial Bank, I think it is important that we should be allowed to point out that the Imperial Bank of India has been so much mismanaging their affairs that it is not worth our while to copy out its constitution, or even to mention its name in the Reserve Bank Bill.

Mr. President (The Honourable Sir Shanmukham Chetty) : The Chair quite realises the argument of Dr. Ziauddin Ahmad that it is open to Honourable Members to say that in view of the way in which the Imperial Bank has managed its affairs, it ought not to be permitted to enter into this agreement with the Reserve Bank. But what the Honourable Member, Mr. Vidya Sagar Pandya, was attempting to do was to analyse the constitution of the Imperial Bank and to suggest that no steps are being taken to amend the constitution of the Imperial Bank of India. Now, such a discussion will be entirely out of order.

Mr. Vidya Sagar Pandya : I bow to your ruling, but I beg to submit that the Bill contains an item constituting a new Board. Therefore, I submit, that it is quite relevant to discuss the working of the Imperial Bank in that respect. We should be allowed to speak as to how the Board was constituted formerly, how it failed to do its duty and how in future we should provide for a set of Directors who will be able to manage the affairs better ? Therefore, I hope, Mr. President, you will not over-rule me if I make any remarks about the constitution of the Bank. Of course, I do not want to make any remarks about the particular Directors who are at present on the various Boards of the Imperial Bank of India. I hope that part is quite relevant to the issue.

Mr. President (The Honourable Sir Shanmukham Chetty) : The scope of the Bill has been explained to the House by the Chair and the Chair wants to leave it to Honourable Members to confine their remarks to the scope as defined in the Bill. I will leave it to the Honourable Members to do it.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions : Non-Muhamadan Rural) : Sir, I remember you ruled, that preamble does not necessarily govern all the clauses. If, in the clauses of the Bill, the Mover expressly deals with the re-constitution of the Directorate, I hope you will allow us to discuss it.

Mr. President (The Honourable Sir Shanmukham Chetty) : It will certainly be within the scope of the discussion, but the enormous mass of details in which the Honourable Member is going will certainly be out of order.

Mr. Lalchand Navalrai : I rise on a point of information, Sir. As just now stated by the Chair, we do realise that there are three questions that are involved as questions of principle in this Bill. But may I know

that when we have been talking with regard to these questions, especially with regard to the removal of restrictions, and also making an agreement with the Reserve Bank, is it not within the purview of this House or the discussion that we should point out the defects that have been experienced in practice so that, when an agreement is made, notice should be taken of those defects and flaws. For instance, if you will permit me to say so, they have a certain principle, namely, if a shroff of the bank goes on leave, then he is to be made responsible for all the defalcations that may happen in his absence.

Mr. President (The Honourable Sir Shanmukham Chetty) : Certainly that point will be out of order.

Mr. Lalchand Navalrai : What I am submitting is that there are certain defects that have to be

Mr. President (The Honourable Sir Shanmukham Chetty) : Order, order : The Honourable Member cannot make a speech now.

Mr. Lalchand Navalrai : I am not making a speech, but I am speaking on a point of information. What I submit is this. Under this Bill, we are making a new agreement with the Reserve Bank and there are certain defects, of which we are aware, which should be removed or improved. I wanted to know from the Chair whether we could go into those points or not.

Mr. B. Das (Orissa Division : Non-Muhammadan) : May I rise on a point of information, Sir ? The Bill aims at the modification of the control of the Government of India over the Imperial Bank. As the Government of India failed in the past to properly control the action of the Imperial Bank of India and as they are going further to empower the Imperial Bank of India for a number of years to be bankers of the State in spite of that failure of proper control, may we not be permitted to discuss the past mis-control of the Government of India over the Imperial Bank ?

Mr. President (The Honourable Sir Shanmukham Chetty) : When the Honourable Member will rise to speak, I will see whether he is in order.

Mr. Vidya Sagar Pandya : I will bow to your decision and will not go into the clauses. But in such matters I feel that it is necessary that the old history as well as the traditions and the matters in which they have gone wrong should be mentioned and, in the light of our experience in the past, we should make a change. I hope, Mr. President, you will permit me to speak on those matters.

Now, Sir, the Imperial Bank is going to be the sole agent of the Reserve Bank and, for some years to come, it would not be possible for the Reserve Bank to open Branches to the extent that the Imperial Bank has done. Therefore, at least for five years or so most of the business will be done by the Imperial Bank of India and it has been our ideal and also the ideal of the Government of India that we should have this institution under the control of Indians, for India and to be run by Indians. The Government have recognised that the Indianization of the Imperial Bank shall continue. During the last few years the Imperial Bank has done something in that direction, though they did not do even a fraction of it for nearly a century. Still, we do feel that the

[Mr. Vidya Sagar Pandya.]

sole agent which will work for the Reserve Bank should be an institution which is run by Indians and for Indians. I do not see how it will be possible for the Bank to be under the control of Indians when certain restrictions are removed. The new constitution is such that, if they institute any further Local Boards, only their Directors and the Secretary will come to the Central Board and to the extent that Indians are unable to exercise their franchise and elect the members according to their own choice, Indians cannot get in. The principle, which the Government have recognised, that is, the Indianisation of the Imperial Bank, has not been incorporated in the Bill. In fact, the Bank will be managed by Europeans only—European Directors in majority, European Managers, Governors and European Secretaries. Then, I want to ask, how it would differ from the Exchange Banks? If a foreign-managed institution is required, why not entrust the work of the Reserve Bank on behalf of the Government to the bigger institutions like the National Bank, the Chartered Bank and other Banks? Now, Sir, the Governor General in Council will have no hand in the choice of the Managing Governor and the Deputy Managing Governor and the Board will go on appointing Europeans.

Now, I come to a very important matter which has not been set right in this Bill in spite of protests by the Bombay Shareholders' Association and other Chambers also. Under the Act, it is open for one member with 199 proxies to carry on a meeting of the Shareholders. There is no limit prescribed for the number of persons to be present at a meeting. The way in which proxies are collected, either by the Bank or by their friends—it comes to the same thing—is such that there is great abuse of this system. In the Bill they have actually provided a clause with a view to making the use of proxies more easy. They have incorporated a clause here that in the case of power of attorney previously deposited, i.e., permanent proxies which are in the several head offices, they need not be brought to the place where the meeting is held, but it is enough if the Secretary of any such Local Head Office gives a certificate that he is holding these proxies at a particular place. This is a further facility for the use of these proxies. I think generally it ought to be the policy of a Bank not to interfere with votes, but, as I have shown from the figures, we find that there are certain number of standing proxies in the name of certain officers or directors. I know the case of one of the Presidency Banks—it is not then the Imperial Bank—where they sent printed and stamped form of proxies in favour of their Directors saying "I appoint Mr. so and so, a Director, as my proxy, failing him Mr. so and so, a Director, failing him Mr. so and so, a Director". Thus they adopted a new printed proxy form for the occasion and they defeated the object of free exercise of votes by the shareholders. So, under the constitution, we should provide that there should not be any canvassing by the officers or Directors or their friends specially among those who are indebted to the Bank and the shareholders should be allowed to make their own choice. In this connection I may draw the attention of the House to what an Association had said on the matter of collecting proxies. They say that unless the matter was made secure under the law, it would not be possible for the shareholders to exercise their rights properly. Another suggestion that I

wish to make is that the bank officers should not indulge in any speculation in Government securities. I have not got a copy of the *Bank Worker*, the organ of the subordinate staff of the Imperial Bank where they have accused the officers of indulging in speculation in certain securities, because they were allowed to invest their provident fund in a particular way. I think the clause should be so amended that there may not be room for any such suspicion. I also suggest that some limit should be placed on the age of Directors. This provision is found in some of the European Banks on the Continent. Generally with age is associated certain experience and wisdom. Under the pretext of experience and sane wisdom some of the Directors are kept on indefinitely and they are re-appointed. Now, up to a certain stage, age and experience is good. But it is bad when it goes far beyond that stage, when it is not physically possible for them to attend a meeting and think rightly. My Honourable friend, the Finance Member, accused me of physical infirmity at the age of 57 and I wonder how he justifies the appointment at the ages of 80 and 90 years. Everybody is liable to infirmity and everybody has his weaknesses, and I never thought the Honourable the Finance Member will go to the extent of accusing me of short-sightedness. I wish to see things with my natural eyes and not through the official glasses. I cannot put on official green spectacles and see everything green when it is not so. I must decline to give up all my judgment and all my experience, and take the Government view only through these coloured glasses. With regard to my reference to the London Committee, the Honourable the Finance Member said that the Members who had gone there were "bold enough and had the ambition to attack the Government". A rare thing indeed. He mentioned two or three names, but if he had gone further up the list and mentioned the names of the other gentlemen, I do not think even those gentlemen will claim that they had any ambition of criticising, much less attacking, the Government and ruining all their chances of being ever appointed on the Select Committee and other Committees. Then, the Honourable the Finance Member, with reference to the bride I spoke of, said that it was not possible to turn a car into a bride...

The Honourable Sir George Schuster : Is my Honourable friend in order in replying to a speech which was made on a measure which the House has already disposed of? The arguments which my Honourable friend is referring to were advanced on a totally different measure and I suggest that my Honourable friend is entirely out of order in replying to a debate on a motion which this House has already passed.

Dr. Ziauddin Ahmad : Honourable Members on the Government Benches have always the last word to say and we non-officials have got no chance to reply to their criticisms. The only chance for us to reply to them is when a similar question is under debate.

Mr. Vidya Sagar Pandya : The Honourable Member said that I had indulged in mud-slinging about the Directors and, in his speech, yesterday, he quoted very jubilantly the comments of the *Hindu* which is no doubt a leading paper, not only in Madras but in the whole of India and so ably edited by my old friend, my good friend, Mr. A. Rangaswami Iyengar. I have the highest regard for my friend and his paper. If the Honourable the Finance Member will kindly take the trouble of going through the old files of the *Hindu* and see what comments the *Hindu* has made about the working of the Imperial Bank in the past, he would find, it surpasses any so-called mud-slinging by anybody

[Mr. Vidya Sagar Pandya.]

-here. I hope he will bear those comments also in mind when, for the time being, it is very convenient to quote that paper. Sir, when one gets into the London atmosphere, he begins to think in that way, and I am not surprised that the learned and able editor of the *Hindu* was also somewhat carried away by the London atmosphere—the great show and pomp and the importance given to the Bill and the members and the minority in which he found himself. But I think, Sir, I can easily, within a few months, quote from any paper a leader to contradict its own remarks previously made ! Did not the learned Editor of the *Hindu* agree to the principle of a State Bank and fought for it in this very House ? I want to know why he has given up that and gone back to a Shareholders' Bank ?

Sir, before I close, I am very sorry to have to speak about one matter and that is about the age and experience of the Directors of the Imperial Bank. Here I may tell you a little story. At one of the Executive Council meetings in India, a very liberal Governor was presiding, and when a Council meeting was going on, one of the Executive Council Members was always dinning into his ears that he should not care about this press agitation and public criticism, but should be guided by his accumulated experience and other Members' accumulated experience of 30 years. And, whenever the Governor spoke, he trotted out this theory of his accumulated experience. Then the Governor lost his patience. " Well, Sir," he said, " if you attach so much importance to that, I may tell you that your accumulated experience of 30 years means that you are out of touch with the progress and public opinion and out of date by 30 years ". So are these gentlemen, who are past 70, 80 or 90 years, with their infirmities, unfit to look after a Bank like the Imperial Bank of India which is performing the functions of a Bank to the extent they were allowed to do. It is a most scandalous part of the whole management that the Directorate should be confined to any particular firms or class or that the Directors should be allowed to sit there when they are really not fit for it.

Sir, I have some more points regarding the clauses of the Bill, but as the Honourable the President has ruled it otherwise, I will obey the order of the Honourable the President and will not take them up. Sir, I thank you for your indulgence.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, before I agree to the motion before the House, I should like to make one or two observations with regard to it. In consequence of the proposed introduction of the Reserve Bank, necessarily certain privileges, that the Imperial Bank of India enjoyed, had to be withdrawn and, with the withdrawal of those privileges, the restrictions that were placed on the operations of the Imperial Bank have also to be withdrawn. That follows as a necessary consequence. One of the restrictions is that hitherto the Imperial Bank was not allowed to do any internal commercial business or foreign exchange business. All these years India's foreign exchange business has been financed by foreign banks that have established themselves in this country. Sir, it is estimated that the total volume of foreign exchange amounts to the extent of 600 crores of rupees annually and India had to depend upon the facilities that are provided by these foreign exchange banks. So it is quite essential that when the

privileges so long enjoyed by the Imperial Bank are removed, the future Imperial Bank should be allowed to do foreign exchange business also and, with the prestige and position of the Imperial Bank, it will be in a very good position to compete with foreign exchange banks and offer facilities for India's trade. Of course these restrictions were hitherto necessary, because the Government were allowing large cash balances, something like 15 to 20 crores, to lie with the Bank without interest and consequently they expected that the bank should not enter into any risky or speculative transactions. And, further, the joint stock and other banks also had to deposit a portion of their cash balances with the Imperial Bank and hence it was not allowed to compete with these banks. Now that these restrictions have to be removed and cash balances are not allowed to the Imperial Bank, and that the Imperial Bank is relegated to the position of the other joint stock banks, it must be allowed free scope to do foreign exchange business as well as internal commercial business. So far, it is quite necessary.

Then, Sir, with regard to the agency business that is to be given to this Imperial Bank hereafter to do the business of the Reserve Bank, wherever the Imperial Bank has got its branches, I have to submit, as I said yesterday, that the Imperial Bank should not be given the sole privilege of acting as Agent of the future Reserve Bank.

The Honourable Sir George Schuster : Sir, may I rise on a point of order ? The last thing I want to do is to suggest that the discussion should be restricted, but the point that I want to make is that in the Bill, which was considered by the House yesterday, there is a clause to this effect that " the Bank shall enter into an agreement with the Imperial Bank of India, etc.". The House has already approved the reference to a Committee of the Bill laying down that the Reserve Bank shall enter into an agreement with the Imperial Bank of India. My point is that, in taking that action, the House has dealt already with the vital part of the matter which Honourable Members are seeking to discuss today. As far as the present Bill is concerned, all that it will provide is that it shall be lawful for the Imperial Bank to enter into an agreement with the Reserve Bank to undertake certain functions. I suggest that the points which are being made today could have been more profitably made in connection with the motion of yesterday, and I think Honourable Members took ample advantage of that opportunity. My Honourable friend, who just spoke, used the words " as I said yesterday", when he was commencing one of his remarks. Now, Sir, I do suggest that it really is out of order in connection with this Bill to enter into matters which have been discussed in connection with the Bill of yesterday. And, in taking the point of order, there is one point that I want to make to Honourable Members. I do suggest that it is not in the public interest that a discussion on these lines should proceed today. All these points can be discussed in Select Committee. I myself will be

12 Noon.

under the greatest possible difficulty in replying, in the present debate, to accusations made against the Imperial Bank, because, although, I think there might be very good replies, I do not want the Committee to take up anything but an impartial position. In the Committee we shall have an opportunity of hearing the case against the Imperial Bank and the case for the Imperial Bank, because I trust the Committee will agree to allow representatives of the Imperial Bank to appear before it. But that sort of thing is impossible in a debate of this kind in the House at the present stage. Therefore, in rising to make this point of order, I had a point of substance in my mind.

Mr. T. N. Ramakrishna Reddi : My contention is not that the Imperial Bank should not enter into any transactions with the Reserve Bank or that the Reserve Bank should not enter into any sort of agreement with the Imperial Bank to act as its Agent : if that was my contention, then I will be out of court ; but that is not my contention. I emphasise again that the Imperial Bank will be in a very good position to act as agent of the Reserve Bank wherever it or its branches exist. I do not oppose that contention. On the other hand, what I was developing was that such privilege ought not to be the sole privilege of the Imperial Bank, but that it should be extended to other indigenous banks so that they might do business side by side. In places where there is a branch of the Imperial Bank and also other efficient banks working, we want that tenders should be called for the work of the Reserve Bank to be done. That is all my contention. I have never said that the Imperial Bank should not enter into any relationship with the Reserve Bank. That was my contention yesterday and that is my contention today, and it is relevant to this point in issue whether the sole privilege ought not to be given to the Imperial Bank. It is only to the word "sole" that I take objection. I have no objection absolutely that it should act as an agent for the Reserve Bank in out of way places where no other banks exist. My only contention is that it should not be put in a position of undue advantage over other indigenous banks. My contention is also relevant for this reason : it is contemplated that some crores of rupees ought to be placed at the disposal of the Imperial Bank free of interest : you will find it in the Schedule.....

The Honourable Sir George Schuster : Will my Honourable friend point out where the words "sole agent" occur in the Bill which is now before the House ?

Mr. President (The Honourable Sir Shanmukham Chetty) : The House must recognise that the Chair would have considerable difficulty in defining the exact lines within which the discussion today on this Bill must be confined. In the face of that difficulty, I can only make an appeal to the House. The House had ample opportunities of discussing for three days the Reserve Bank of India Bill. Properly speaking, the discussion on the two Bills must have taken place simultaneously. It is because our rules do not provide for the consideration of a motion on two Bills at the same time, that the motion had to be split up. With regard to the details of the agreement of the Reserve Bank with the Imperial Bank of India, that was clearly within the scope of the Bill which we have disposed of, and I think Honourable Members will not be in order except just to make passing reference to that agreement ; with regard to the substantive point raised by the Honourable the Finance Member, I think the Chair also would endorse what the Honourable the Finance Member has said. I know that the House as a whole takes a very keen interest in the affairs of the Imperial Bank which, after all, is a public institution created by an Act of the Imperial Legislature, and the House is legitimately entitled to take an interest in the affairs of that institution. In fact, in spite of the attempts of this House on previous occasions, the House has not had very full scope for having such a discussion, and this Bill no doubt provides such an opportunity ; but I would also suggest this : that, as responsible representatives of the people, we must be very cautious in what we say with regard to the management of such a delicate institution as a Bank, because it might have serious repercussions

in the financial world. The Select Committee is the proper place where a thorough investigation can be and ought to be made about the affairs of the Imperial Bank before this Bill emerges from the Select Committee ; and, I think, after giving the Select Committee the opportunity to go into the details, it will then be perfectly open and justifiable on the part of Honourable Members at a later stage to go into the details of the management of the Imperial Bank. I would suggest that at this stage Honourable Members will be well advised in the public interest not to go into too many details.

Mr. T. N. Ramakrishna Reddi : On that point my only contention was that the privilege of sole agency should also be extended to other banks.

We are now removing those restrictions that were hitherto imposed on the bank : it was because the bank was given certain cash balances free of interest, that certain restrictions were placed ; now this Bill seeks to remove those restrictions, and the privilege of keeping cash balances has been removed. But in its place it is contemplated to allow certain amounts to the extent of a five to six crores to be given free of interest, and hence I am opposed to all the powers of the Governor General being taken away from the Imperial Bank in the matter of nominating directors or governors. Some sort of control must continue in the working of the Imperial Bank even after the Reserve Bank is established, because the Bill contemplates that that Bank should act as an Agent for the Reserve Bank and certain facilities are going to be given to the Imperial Bank. With these remarks, I have no objection to supporting the motion for reference to Select Committee.

Mr. S. C. Mitra : Sir, the Imperial Bank of India (Amendment) Bill is a necessary corollary to the Reserve Bank Bill and, as such, it would not have taken even a couple of minutes to refer it to the Select Committee ; but as my friend, Mr. B. Das, has pointed out, though this is an amending Bill, really under cover of it, we are enacting an Imperial Bank of India Act for 25 years. By efflux of time, the life of the old Imperial Bank of India Act, enacted in 1920, is over, and it is not in the same position as in 1928. a mere amendment consequential to the introduction of the Reserve Bank Bill. I appeal to you, Sir, to look to this side of the question in allowing us to discuss about the principles of this Bill. I shall strictly follow your ruling. I shall not go into any detail ; but, at the same time, I think if we examine the Bill merely as an amending Bill, we will not be doing full justice to this Bill. Had there been no Reserve Bank, certainly Government would have come even earlier than this date with a new Imperial Bank of India Act to continue their agreement with the Bank. The experience of Indians of the way in which the Imperial Bank behaved is well known. The Presidency Banks which were later on incorporated into the Imperial Bank, which was the Bankers' Bank or the Central Bank for India, has not, all these years, done justice to Indians in general, and to Indian agriculture in particular. It was certainly helpful to the European industries, but not to the Indian industries even in the least degree. We have our complaint against the working and management of the Imperial Bank, but, Sir, as you have advised us, I shall not go into details at this stage. I myself introduced a Bill for amending the Imperial Bank Act during the last Session, but, through the whims of the ballot box, I did not get a chance to discuss the Bill till now. I wanted to introduce

[Mr. S. C. Mitra.]

mainly two principles, one was about the statutory recognition of the Staff Unions by the Imperial Bank and the other was that, in the re-organization of the Directorate, there should be representation of the Indian staff also. I don't think I should now ventilate those grievances. If it is not beyond our scope, I shall try to raise those points in the Select Committee ; but, I think, when we are amending this Bill in name, really we are amending the Imperial Bank Act for another 25 years.....

The Honourable Sir George Schuster : I am afraid, Sir, there is some little confusion in the mind of the Honourable Member about the agreement between the Imperial Bank and the Reserve Bank and the Imperial Bank of India Act. We are not enacting the Imperial Bank of India Act for another 25 years. I think my Honourable friend has got the question of the agreement in his mind.

Mr. S. C. Mitra : Is it not a fact, Sir, that the Imperial Bank of India Act has already expired, and that it has been given an extension of life, in view of the impending legislation regarding the Reserve Bank ?

Mr. President (The Honourable Sir Shanmukham Chetty) : The Chair thinks the Honourable the Finance Member has made the position clear. The Honourable Member has evidently confused the operation of the Imperial Bank of India Act and the operation of the agreement between the Government and the Imperial Bank. So far as the Chair understands the position, it is the agreement that has terminated, but the Act has not terminated, and it cannot terminate until it is repealed by this House.

Mr. S. C. Mitra : Was it not extended for another two or three years ?

The Honourable Sir George Schuster : It is the agreement that my friend has in mind. The agreement was made for ten years, and it is now running on from year to year, and not the Act.

Mr. S. C. Mitra : My point is whether we are not binding ourselves for another 25 years about the agreement ?

The Honourable Sir George Schuster : That has just re-inforced the point I have just made,—that the agreement which the Reserve Bank is to make with the Imperial Bank has already been provided for and it is dealt with in the other Bill.

Mr. S. C. Mitra : Now, Sir, as the Honourable the President has ruled, that we cannot discuss one Bill without the other, I shall not go into details. But as my friend, Mr. Reddi, has put it, so long as we agree to the other Bill being sent to the Select Committee with the clauses that the Imperial Bank will be the sole agent of the Reserve Bank in all places where the Reserve Bank will not start its own branches, I think we are very much interested to see, as long as those clauses are not suitably amended, so as not to give a complete monopoly to the Imperial Bank in the future, that the interests of Indians do not suffer. However, as the Honourable the President has said, there will be time enough to discuss these points in the Select Committee, and so I don't like to develop these points further at this stage.

Mr. B. Das : Sir, I rise to oppose the consideration of the motion (Reference to Joint Select Committee) before us. I do not think the Honourable the Finance Member will in any way be put in a delicate position if the House carries out the proposition which I am putting forward, because thereby only one particular clause (clause 33) contained in the Reserve Bank Bill will have to be omitted. Sir, I am not a financier, as the Honourable the Finance Member is, nor am I the conscience-keeper of the bankers, as the Finance Member is, and so I shall suffer from the same disabilities as the previous speakers have suffered, of course with the notable exception of my friend, Mr. Vidya Sagar Pandya. I may speak things which may encroach upon the ruling which you have just given or it may affect matters which my friend, the Finance Member, does not want to be known in public interest. I do not know, Sir, what he means by public interest. It was very difficult for the Finance Member to explain what "distressed gold" was, but I would like to ask him what he means by public interest—whether it is the interest of the Government of India or the interest of the Imperial Bank of India. We, the representatives of the public, here interpret public interest as the interest that affects the 360 millions people of this country, whereas my friend, the Finance Member's idea of public interest is the interest of the hush hush policy of the banking interest of India, the interest of the capitalists' vested interest, and the interest of Whitehall. Sir, I will try to keep myself within the ruling you have just given. I am here reminded of the Imperial Bank of India Act of 1920 which was passed by the old Imperial Legislative Council where men of banking experience did take part and did fight valiantly, but I do not like today to refer on the floor of the House to the speeches that were delivered by the non-official representatives then. I shall merely quote the speech of the Honourable Mr. W. M. Hailey (now His Excellency Sir Malcolm Hailey) who is now the conscience-keeper of Whitehall. While he moved that the Bill be passed, he referred to the various doubts and suspicions that were expressed by the Opposition, and he replied to them encouragingly and piously stated his views in these words. I do hope, when my friend, the Finance Member, will rise to reply, he will reply point by point categorically to this statement which I am quoting from the speech of the Honourable Mr. W. M. Hailey and tell us how far the Government of India have exercised their control on the Imperial Bank of India and how far the Imperial Bank had given effect to the pious wishes of the then Finance Member of the Government of India in their day to day routine work. This is what he said :

"I am sure that time and experience will dissipate the apprehension that the new Bank will prove a danger to the private banks of this country. For my own part I have never been able to envisage the position that the new Imperial Bank is likely to serve the needs of one class of the community or of one section of bankers. We ourselves have regarded it purely as a measure to extend banking facilities, and to render the money resources of India more accessible to the trade and industry of this country ; thereby promoting that financial progress which is an indisputable condition of the social and economic advancement of India. It was in this belief, Sir, that we first set our hands to this measure ; it was in this belief that, in spite of some opposition and misunderstanding, of our motives, we continued to press it on the Council ; and it is in the belief that the measure will give to us a great national institution having ample resources for the assistance of trade, constituting itself an example of sound banking to other banks, an institution which will assist not only the State, but the public, and all sections of the public—it is in the firm assurance in this belief that I now ask the Council to pass the Bill."

[Mr. B. Das.]

Nobody on this side of the House, nor the teeming millions of India, except the few Indian or European capitalists that are Directors or Governors of the Imperial Bank, can say that the Imperial Bank is a *national bank of India*. I challenge here and outside this House any Indian to say that the Imperial Bank is functioning as the *national bank of India*. I further say that the Imperial Bank of India has gone against every indigenous bank, because it has been the protege of the Government of India, because it handles the huge finances of the Government. It has become a bloated up bank, and, with its big financial reserves, it might be benefitting a few shareholders, but it has done infinite harm to the national interests of India. It has done infinite harm to the Indian trade and commerce. My friend—of course he was my friend—Mr. W. M. Hailey, here says :

“For my own part I have never been able to envisage the position that the new Imperial Bank is likely to serve the needs of one class of the community or of one section of bankers. We ourselves have regarded it purely as a measure to extend banking facilities, and to render the money resources of India more accessible to the trade and industry of this country....”

He also mentioned that it will serve all sections of the Indian public. I do hope that the witnesses, who will appear before the Joint Committee, will prove that they have served all the interests in India. We have asked questions of the present Finance Member and his predecessors. Figures were produced to show that more money was advanced to the European interests in this country than to the Indian interests. My opposition to this reference to a Joint Committee lies in the fact that in spite of my having certain differences about the Reserve Bank, I have welcomed its establishment. I have supported that there should be a Reserve Bank, but why should the Reserve Bank, which is to be vested with the powers which at present the Government of India exercise through their Chancellor of the Exchequer, hand over all their resources, their liquid resources to the Imperial Bank? Why should the Imperial Bank be at an advantage as against the Central Bank of India, or the Bank of India, or the Bank which my Honourable friend, Mr. Vidya Sagar Pandya, controls? We know the history of the Presidency Banks. They were European banks, though there might have been a large number of Indian shareholders. And the legacies of the Presidency Banks still continue in the management of the Imperial Bank. When we are turning a new leaf, when we are thinking in terms national, why should one particular bank receive these favours from the Reserve Bank and not the other banks? If we throw out this Bill, no harm will be done to the Government or to the country. Government may bring a Bill to repeal the Imperial Bank of India Act, and they may bring forward another Bill for entering into business transactions with all banks,—of course, Indian, with Indian Directors, banks which satisfy the conditions laid down in the External Capital Committee's report about the Directorate, about the share capital. The Government of India would then enter into transactions with them, and wherever other indigenous banks exist, they should give equal opportunity, and no preferential treatment should be given to the Imperial Bank.

Sir, things have gone wrong. The financial Swaraj or control which we were dreaming of has slipped out of our hands, partly through our mistakes and partly through the rally of the diehards in England. I do

not mind if my Honourable friend, the Finance Member, is a party to the financial safeguards in the White Paper ; it is his duty as a Britisher. But I would not like him to perpetuate this piece of injustice by permitting the Imperial Bank to squeeze out all other banks. I will only give one illustration. It is not a new thing ; it is well known to the House, especially to its older Members. When the Peoples' Bank of Lahore went into liquidation, did the Imperial Bank go to its rescue ? Rather there was a dinner party in Lahore celebrating the liquidation of the Peoples' Bank. But when the Alliance Bank went into liquidation, the Imperial Bank of India, though controlled by the Chancellor of the Exchequer of the Government of India, though controlled by this Legislature,—fiat went round and the Finance Member ordered the Imperial Bank to take over the whole burden of the Alliance Bank. We asked questions after questions ; I do not know how many hundreds of questions were asked on the floor of this House. The final reply never came, nor did we on this side know how much loss the Imperial Bank suffered. Of course, I must say that that loss is covered by the huge free deposit of 200 or 300 crores of rupees which the Imperial Bank handles every year without paying any interest on behalf of the taxpayers. It is said that the shareholders or creditors of the Alliance Bank got only eight annas to the rupee. Is that so ?

Mr. Vidya Sagar Pandya : The Imperial Bank of India gave them funds to enable them to pay eight annas in the rupee to the depositors immediately.

Mr. S. C. Sen (Bengal National Chamber of Commerce : Indian Commerce) : The creditors got to the extent of about fourteen annas in the rupee.

Mr. Vidya Sagar Pandya : The creditors were paid eight annas immediately.

Mr. B. Das : The Imperial Bank, directed by the then Finance Member of the Government of India, came to the rescue of the Alliance Bank, and the scandals of Boulton Brothers and other European financiers, who controlled the Alliance Bank, did not see the light of day. This is the past history of the Imperial Bank of India, and today my Honourable friend asks us to hand over to it for a period of 25 years the control of the banking operations of the Nation ! Either the Reserve Bank is not going to be a national bank, or the intentions of the Government are not honest. If we vote for this Bill today, we shall be creating one particular vested interest against all other banking interests, and we shall be perpetuating all the evil aspects of the past history of the Imperial Bank. I appeal to my Honourable friends not to commit that mistake. I appeal to my Honourable friends to allow the Government time to think out and plan out, which they have not had time so far to do, amidst their other pre-occupations. I appeal to my Honourable friends on this side of the House to criticise the Bill in such a way that all indigenous banks of India have a chance to be agents of the Reserve Bank wherever they have branches. With these few remarks I oppose the pernicious proposition which is contained in this Bill.

I wish to point out that section 10 of the Imperial Bank Act, 1920, which is to be amended by clause 4 of this Bill brings out the meaning of

[Mr. B. Das.]

the words, "sole agent". Shall I read section 10? Section 10 says :

"It shall also be lawful for the Bank under any agreement with the Secretary of State for India in Council to act as banker for, and to pay, receive, collect and remit money, bullion and securities on behalf of the Government"—

and the amendment says :

"for the words 'the Secretary of State for India in Council' the words 'the Reserve Bank of India' shall be substituted."

The Honourable Sir George Schuster : But where is the expression "sole agency"? My Honourable friend said that he would show us where this expression occurred in the present Bill.

Mr. B. Das : What is in a word? I am explaining how clause 4 confers the sole power to the Imperial Bank of India.

The Honourable Sir George Schuster : My Honourable friend has not proved his point at all.

Mr. B. Das : It is very difficult to convince my Honourable friend, the Finance Member, but the Chair and every other Member of this House is convinced.

Mr. T. N. Ramakrishna Reddi : Will the Honourable Member make a statement that other banks will also work as agents to the Reserve Bank?

Mr. President (The Honourable Sir Shanmukham Chetty) : That point really arises out of the Reserve Bank Bill. It is for the Reserve Bank to decide if they will have the Imperial Bank of India as their sole agents or they will have other banks also as their agents. This Bill only enables the Imperial Bank of India to enter into an agreement with the Reserve Bank, whereby the Imperial Bank will be the sole agent or one of the agents.

Mr. B. Das : I do not wish to prolong the agony of the Treasury Benches. Your ruling satisfies me, Sir. Those of us, who will be represented in the Committee, will see that the Imperial Bank does not become the sole heir of the State for millions of years. In consideration of that view, I can give my sanction if the Finance Member says that he will withdraw this Bill and bring out another Bill, whereby other indigenous banks will also be heirs to the funds of the Reserve Bank.

Mr. E. S. Sarma (Nominated Non-Official) : I move that the question be now put.

Mr. B. Das : Is he the Government whip?

Mr. Lalchand Navalrai : I am not opposed to this Bill at all. I feel that it will be inconsistent if we did not send this Bill also to the Select Committee. This Bill, connected as it is with the Reserve Bank Bill, should automatically go to the Select Committee. I am not going to make a long speech on this motion, nor shall I go into details. I am thankful to the Honourable the Finance Member when he got up to say that he takes note of the defects and irregularities of the Imperial Bank and that he will consider them.....

The Honourable Sir George Schuster : I really must reject my Honourable friend's praises. I never said anything of the kind.

Mr. Lalchand Navalrai : Then I do hope that the Finance Member who has been hearing the defects of the Imperial Bank, not only now, but also at question times, will give his attention to this at the time when he is making an actual agreement with the Imperial Bank. There is only one point to which I wish to refer and it is this. I had no opportunity to speak on the Reserve Bank Bill, but what I want to emphasize is this—that some of us on this side of the House are against any indirect election of the Directorate. The Directors, as I understand them under the Reserve Bank Bill, have to be selected by Local Boards. I find here some attempt is being made with regard to that under clause 28 of this Bill. It is said that the Central Board shall consist of the following Governors and so on and then a reference is made to the Secretaries of the Local Boards established by this Act and it is further said that if any Local Board is hereafter established under this Act, there will be such number of persons to represent it as the Central Board may prescribe.

The Imperial Bank of India Act is not with me and I am not in a position to say how the Directors are at present elected. I am told that the Directors are elected by the shareholders. That is the direct method of electing the Directors. That method I want for both the Banks, and I want to draw the attention of the Finance Member to this point of direct election and ask that it should be considered at the time of the Joint Select Committees' meeting. I have nothing more to say.

Mr. S. C. Sen : I have no desire to enter into the details of this Bill. This Bill is necessary for removing certain restrictions which were imposed on the Imperial Bank, because they were dealing with the Secretary of State, but I ask the Honourable the Finance Member in removing those restrictions to consider how far they are consistent with safety for the very large sums of money which will be handled by the Imperial Bank of India on behalf of the Government of India. If the future Imperial Bank of India is to be allowed to trade in all classes of things, as it is proposed to be done, how far would that be consistent with the handling of large sums by the Imperial Bank of India on behalf of the Reserve Bank? That is a point which should be considered by the Honourable the Finance Member when the Bill goes before the Select Committee. Much abuse has been showered on the Imperial Bank of India by my friend, Mr. Das. My experience in Calcutta is otherwise. When we approached the Imperial Bank on behalf of the Bengal National Bank, they immediately gave us 20 lakhs of rupees. I cannot forget the way in which the Imperial Bank came to our help on that occasion.

Mr. B. Das : One swallow does not make a summer.

Mr. S. C. Sen : As abuses have been showered on the head of the Imperial Bank of India, I have told the House what is our experience in this matter.

Mr. Vidya Sagar Pandya : They have declined to advance money even against Government paper.

Mr. S. C. Sen : They did not even look in our case into the securities which were being offered and they paid the money then and there.

Mr. T. N. Ramakrishna Reddi : Then they were not doing good banking business.

Mr. B. Das : Were the applicants Bengalees ?

Mr. S. C. Sen : Yes, the Directors of the late Bengal National Bank were all Bengalees. Then, another objection was raised by Mr. Pandya that the Bank Directors were guilty of sending proxies to the shareholders. Probably he has forgotten that that is a procedure which obtains in the case of every joint stock company in the world and that it is legalised is proved by decisions in the highest Courts in England. So there is nothing wrong there. If, for the purpose of the Bank and for the purpose of the business of the Bank, the Directors thought that they should approach the shareholders with proxies, there is nothing wrong in it. Sir, I need not go into further details. All I need say at this stage is that the restrictions, which are sought to be removed, should be carefully considered.

Dr. Ziauddin Ahmad : Sir, before I take up the general principles of this Bill, I would like to make some reference to two points mentioned by my friend, Mr. Vidya Sagar Pandya. The first point refers to age. I remember when I was a small boy in a school, some person came to examine me and put a simple question of arithmetic : If the price of a horse, whose age is 4 years, is Rs. 15, what would be the price of the same horse when it reaches the age of 24 ? I immediately multiplied the price of the horse with 6 and 90 was the answer. Then, everybody laughed and I thought that I had made a mistake. Then I reconsidered the matter and found out that the value of every living being increases with age up to a certain limit and afterwards the law of diminishing returns begins, and price at a certain age suddenly collapses. I think this was really the point which Mr. Pandya was trying to bring out. The second point to which I would like to refer is about the persons who went to London. I was unfortunately one of the persons who went to London, but I was not a member of the Reserve Bank Committee ; I did not take part in the discussion nor I signed the report ; I was a member of the Railway Committee. I left India with the full determination that I would oppose tooth and nail the scheme relating to the establishment of the Statutory Board and in order to equip myself I went to Geneva to gather some more facts in addition to what I already possessed. But when I carefully examined the administration and the working of the various Railways in Europe, I changed my mind on account of the convincing facts which were laid before me. Let me tell the House that this did not happen in the hot climate of London—because my experience is that the climate of London at that time was certainly hotter than that of Simla now—but I changed my mind in the cool atmosphere of Geneva. And when the time comes to discuss this question of the Statutory Railway Board I hope my distinguished Leader will give the Assembly an opportunity to discuss it, and then I will be able to lay before the House the exact reasons and facts on account of which I changed my opinion. Therefore, the House should give some concession to the persons who went to London. They had some honesty about them. It is quite a different matter that unfortunately the majority of the members of the Reserve Bank Committee consisted of persons who believed in the State Bank, but their honesty is not in question.

Now, Sir, I come to the subject matter of this Bill. I would have very much liked to have this Bill consisting of only two clauses. The first clause ought to have been that the Imperial Bank of India Act of

1920 is hereby repealed; and the second clause ~~should have said~~ that the Governor General in Council may be empowered to transfer all the cash balances and also take the necessary steps to transfer the credit of the country from the Imperial Bank to the future Reserve Bank. These two clauses would have been quite sufficient to meet our case. Then we would have left it to the Reserve Bank to make such negotiations with the Imperial Bank and other banks as it might think fit. Sir, I would like, first of all, to ask the question whether the Imperial Bank is a private bank or whether it is a State Bank? You cannot say that it is a private bank because we are enacting for the Imperial Bank. We are not enacting for the Simla bank or for other banks in this country. We are placing this Imperial Bank in a favoured position. So it is not a private bank. Is it a State Bank? I suppose the answer will be that it is not altogether a State Bank because the shareholders have got enormous powers. I do not like to go into the details as they have already been described by my distinguished friend, Mr. Vidya Sagar Pandya. The fact, however, is that it is neither the one nor the other. It is both a Shareholders' Bank and the Government Bank. Sir, this sort of thing you are demanding in the case of the Reserve Bank. Whatever irregularities they want to commit they may do without taking the risk of being criticised in the Assembly. You are creating a position in which neither the shareholders nor Legislature may be in a position to criticise. A shareholder as such has got no voice because one man's voice is always drowned by a shareholder who is holding 200 proxies in his pocket. It is not a case of one man and one vote. We cannot criticise it on the floor of this House. Therefore, I do not mind that it may either be a State Bank and its working criticised on the floor of this House, and its administration responsible to the Legislature, or be a private or a Shareholders' Bank. In the latter case we need not take the trouble of going into its affairs at all. If the Bank mismanages its business, it would suffer, and shareholders not the taxpayers would pay for mismanagement. Here what they are trying to do is this. The Imperial Bank is not doing anything for the benefit of the country and yet it is demanding the full benefit of the protection of Government. This is a very anomalous position and we should not allow it. I want to press that the question of the Imperial Bank ought to be left entirely to the consideration of the Reserve Bank when it is established and we, as Members of this Legislature, should not take part in its deliberations at all, except in one respect, if the Honourable the Finance Member may be willing to accept it, that the Act of 1920 may be repealed altogether and the Imperial Bank may be placed on the same footing as other banks. Sir, we have got the Act before us but no person either on behalf of the Imperial Bank or the Government has made out a case as to why the Bank should continue to receive the protection of the Government. If there was no Reserve Bank, then I could understand that the Government wanted a bank to look after its credit. But when the credit of the Government is going to be transferred from the Imperial Bank to the Reserve Bank, then there is no reason why we should continue to show the same favour which we have been showing for the last 13 years to this one particular Bank. It may be said that because we have been showing to this Bank special favour and because this Bank had been enjoying special privileges, it is accustomed to it and it should continue to enjoy them. If that is the argument which is

[Dr. Ziauddin Ahmad.]

brought in its favour, then the argument of my honourable friend, Mr. Pandya, will immediately come to the forefront, namely, that our experience is that the way in which you carried on the affairs in the past does not deserve the continuation of those privileges. Therefore I would very much like to be informed by those who are in favour of the continuation of these privileges to make out a case for the continuation of the privileges.

Another point I should like to refer to is this. If the Imperial Bank Act is to be enacted by us, and receive legislative authority, the Imperial Bank must be subject to the conditions of 'Services' laid down by the Home Department. If the Home Department make rules of appointment for the departments of the Government of India, then all departments which receive protection and favour from them should conform to those conditions. Similarly if the Imperial Bank is to receive legislative sanction, then they should submit to all the conditions laid down by the Home Department. This is one more point against the legislative enactment of the Imperial Bank if they refuse to submit to the conditions. Therefore, I strongly impress this fact that we ought to place all the indigenous banks in India on the same footing. We must not place one bank in a favoured position. If this principle is adopted then this legislation goes against that particular principle. We on this side of the House very strongly feel that no bank should be placed in a privileged position and therefore we cannot possibly agree to the continuation of the privileges enjoyed and misused so long by the Imperial Bank.

Another point that I wish to make out is this. India is no doubt an agricultural country. If any one wishes to give any advantage to India then he must take into the consideration the benefits of the agricultural classes. In this case the Imperial Bank has singularly failed. They may have failed on account of the provisions of the Imperial Bank Act. But they never demanded from the Government a change of that Act. The Imperial Bank never give any advance to the landlords on the security of landed property. I pointed out the other day that though the bank rate of interest has been reduced, it has been reduced only for the benefit of the industrialists and commercial men in Bombay and Calcutta. We, in Upper India, who pay very large taxes for the profits of the Imperial Bank, gain no advantage from them. They never give any advance on the security of agricultural properties and therefore the landlords are compelled to take money from the local bankers who have not reduced their rates of interest on account of the lowering of the bank rate of interest. Therefore, here also the Imperial Bank has singularly failed to help a very important class of India, namely, the agriculturists and the landlords and therefore this is another reason why they do not deserve any favour which we have been showing to them. No doubt the Imperial Bank was our favourite wife till now and the only wife till now, but now the Reserve Bank has come into existence and I think we should not have two. We should divorce the first.

The Honourable Sir George Schuster : Sir, my Honourable friend who has just spoken deserves, I think, the honour of the House in one respect above all and that is that he is not afraid of standing up in this

Assembly and stating that he has changed his mind. I am glad in a way that my Honourable friend has made his speech. I am sure he will not take it amiss from me if I say this to him. I think his speech discloses that he has not made that careful study of the affairs and position of the Imperial Bank that he has made of the position of the Railway Board about which we hear so much from him. Now, I put it to my Honourable friend in all seriousness—he always takes a part and a very important part in the discussions on the floor of the House—and I put it to him that before he again intervenes in the later stages of this discussion, let him go not to Geneva but to Bombay, Calcutta and Madras and seek....

Dr. Ziauddin Ahmad : In view of my experience in London, of which the Honourable Member is an eye witness, will he still advise me to go to Bombay ?

The Honourable Sir George Schuster : I say let him visit those places and let him seek discussion with those who are responsible for running the affairs of the Imperial Bank and let him put before them some of the points which he has made today. Sir, it is not my object, nor is it a proper part for me to appear in this House as the advocate of the Imperial Bank. There are many things which I would like in common justice to say but as I have already pointed out on the occasion of one of the interventions which I have made in the discussion today, I wish to say nothing now which will create the impression that I am in the least biassed in my mind one way or the other as regards the statements that have been made as regards the Imperial Bank. There are many points which we shall have to enquire into in the Select Committee and there I trust Honourable Members will be willing to listen not only to one side but to both sides of the case. Sir, my Honourable friend, Mr. B. Das, asked me what I meant by reference to the public interest when I suggested to you that there were certain lines of discussion which it would not be in the public interest to permit today. Sir, what I had in mind was this. I was thinking of the public interest in an indirect way. I was thinking really of the cause of common justice and I do submit that it is in the public interest that the cause of common justice should be respected in this House. Many Honourable Members have spoken as advocates against the Imperial Bank but there is no one here who is competent to speak as an advocate for the Imperial Bank and I think it is just as well that that should be so because as I have already said I think the sort of case which has been made out is one which should be dealt with in the Select Committee and it cannot be dealt with properly in the course of a debate on the floor of the House. I still maintain that most of the speeches to which we have listened today ought to have been made, and in fact *were* made, in the course of the discussion on the previous motion and therefore I do not propose to deal with those speeches. The case of this motion I think is amply proved and, if I were to indicate, one way if has been proved, I am reminded of the days when I used to study Euclid and there was one method of proving a proposition which was called the *reductio ad absurdum*. I think the speech of my Honourable friend, Mr. B. Das, provides the *reductio ad absurdum* in the present case. My Honourable friend asked the House to reject this Bill altogether. I would ask the House to consider what that course would mean. The House has already approved the principle of a Bill which authorises the Reserve Bank to enter into an agreement with the Imperial Bank of India. The Imperial Bank Act, as it stands today, does not

[Sir George Schuster.]

authorise the Imperial Bank to enter into an agreement with the Reserve Bank but merely to enter into an agreement with the Secretary of State in Council. One of the main amendments in this Act is to make it possible for the Imperial Bank to enter into an agreement with the Reserve Bank if a Reserve Bank is set up. That, Sir, my Honourable friend would seek to make impossible and thereby he would, if this Legislature followed his advice, be making this Legislature a laughing-stock in the eyes of the world. I need not say anything more on that and I do not think the House will want to hear me on any of the detailed provisions of the Bill. They are all matters which can be discussed in the Select Committee and I think if I might sum up the general sense of the discussion today, it is not that an Imperial Bank Amendment Act is not required but that the present Bill does not go far enough.

Mr. B. Das : Yes, that is so.

The Honourable Sir George Schuster : That, Sir, is the view of the House and I think there is no one who can object to the motion that I have proposed.

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is :

“ That this Assembly do recommend to the Council of State that the Bill further to amend the Imperial Bank of India Act, 1920, for certain purposes, be referred to a Joint Committee of this Assembly and of the Council of State, with instructions to report on or before the 20th November, 1933, and that the Joint Committee do consist of 28 members.”

The motion was adopted.

THE INDIAN MERCHANT SHIPPING (SECOND AMENDMENT) BILL.

The Honourable Sir Joseph Bhore (Member for Commerce and Railways) : Sir, I move :

“ That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes (Second Amendment), as reported by the
1 P.M. Select Committee, be taken into consideration.”

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is :

“ That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes (Second Amendment), as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

Clauses 2 to 34 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Joseph Bhore : Sir, I move that the Bill, as amended by the Select Committee, be passed.

Mr. S. G. Jog (Berar Representative) : Sir, the object with which I stand up to speak on this motion is that I do not want to see this Bill passed without a word from this side. I do not want this House to put in their silent approval to this Bill. On the 12th April last, when our

Honourable friend made a long speech on this Bill and there was a lot of discussion on it, the President on that night thought that the Bill was of a controversial nature and should be discussed at some later stage. We on this side of the House also thought that the measure was of a controversial nature and required further discussion, and on that night the motion for Select Committee, very much against the wishes of the Mover, had to be postponed. I had a talk with him immediately after that and I thought the Mover of the Bill had lost his temper for some time. But when the Bill came up before the House for the second time, the motion for the Select Committee was passed without much discussion. I also for some time thought, looking to the length of the Bill, that there must be some important questions involved which required some elaborate discussion.

Mr. A. Raisman (Government of India : Nominated Official) : Sir, may I rise on a point of personal explanation ? I think the Honourable Member said that, on the last occasion when this Bill was postponed, he spoke to me and I think he said that I lost my temper. I should like to explain that what the Honourable Member asked me was whether I would arrange for the meeting of the Select Committee to take place sometime before the present Session, and I must admit that as the motion had not yet been adopted, I said to him somewhat curtly that I was afraid it was not much use my collecting a Select Committee when the Bill had not been referred to one. That, Sir, is what happened.

Mr. S. G. Jog : I had no mind to criticise my Honourable friend, but I could see that he was very keen on this Bill and when he found that, it was postponed for some time, it appeared to me that he lost his temper. I absolutely had no mind to cast any aspersion on him. However, Sir, as it was given out, the whole principle of the Bill was safety first and safety last and all the clauses were introduced for ensuring the safety of the passengers and of the load that was to be put on the ships. There was some discussion when the Bill was before the Select Committee and there were some matters which, though not exactly relevant to the purpose of the Bill, were still matters of great importance from the public point of view ; and I am glad to find that recognition has been made of that in the Select Committee and I should like to read from it, otherwise the House may not take any notice of it. Of course I am also a signatory to the Select Committee's report :

“ Some of us are of opinion that the rules to prevent overcrowding of deck passengers are not being strictly enforced in all cases and suggest that an inquiry should be held into this matter and any action taken that may be necessary.”

I am very much thankful to the Chairman of that meeting and the official members in the Committee that they have taken a note of the suggestion on which we, the non-official Members, were very keen. The question of overcrowding, as in the Railways so in the ships, is a matter of grave concern to the general public, and I am glad to find that the official Members have taken note of it, and I only suggest to them that they should not stop here by merely making a note of it, but I hope they will make inquiries, and, wherever such a thing is found to exist, strict measures should be taken to stop this overcrowding. If they take this into consideration and put it into operation, I think the labours of the Select Committee will not have been in vain. This whole Bill refers to the safety of ships and, I think, in future, the safety of the ships will very much be assured. With these words, I support the motion that the Bill be passed.

The Honourable Sir Joseph Bhore : Sir, I will only detain the House for just a short moment. I really would like to see credit go where credit is due and I should like to say that the point to which my Honourable friend, Mr. Jog, referred was raised by my Honourable friend, Mr. Gaya Prasad Singh. He raised it both in the shape of questions in this House and also during the discussions in the Select Committee, and I need only say that no recommendation coming from any member of the Select Committee will fail to receive the most careful consideration.

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is :

“ That the Bill further to amend the Indian Merchant Shipping Act, 1923, as amended by the Select Committee, be passed.”

The motion was adopted.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Sir Shanmukham Chetty) in the Chair.

THE MURSHIDABAD ESTATE ADMINISTRATION BILL.

Mr. B. J. Glancy (Political Secretary) : Sir, I move :

“ That the Bill to provide for the appointment of a Manager on behalf of the Secretary of State of the properties of the Nawab Bahadur of Murshidabad and to define the powers and duties of the Manager, as reported by the Select Committee, be taken into consideration.”

I am glad to be able to say that the Select Committee, to which this Bill was referred, have sent in a unanimous report ; only very few amendments have been suggested in the Committee, and I do not think it is necessary for me to enter into them now. Certain members of the Select Committee have appended to the Committee's report a minute which runs as follows :

“ A number of creditors of the Nawab Bahadur have obtained decrees in the highest judicial courts. We feel sure that these decrees will not be lightly re-opened by the Manager under the powers which this Bill confers on him, but will be accepted as *prima facie* proof of the respective debts.”

That minute appears to Government to be a perfectly reasonable and unobjectionable statement of the position ; and Government are quite prepared to give an assurance that the Manager will act in accordance therewith. In the light of this assurance which I have now given, I venture to express a hope that Honourable Members may not find it necessary to move the amendments which stand in their names.

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is :

“ That the Bill to provide for the appointment of a Manager on behalf of the Secretary of State of the properties of the Nawab Bahadur of Murshidabad and to define the powers and duties of the Manager, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is :

“ That clause 3 stand part of the Bill.”

Mr. Muhammad Anwar-ul-Azim (Chittagong Division : Muhammadan Rural) : Mr. President, it is certainly not my purpose to embarrass the Official Benches by moving this amendment. My sole object is to discharge a moral duty to my constituency on the floor of this House. I am not in any way connected with the estate of Murshidabad and I have no brief on behalf of the Nawab Bahadur.

Mr. President (The Honourable Sir Shanmukham Chetty) : The Honourable Member must move his amendment.

Mr. Muhammad Anwar-ul-Azim : Sir, I move :

“ That to clause 3 of the Bill, the following further provisos be added :

‘ Provided that the salary of the Manager, so appointed, shall not exceed rupees eight hundred and fifty per month, or a sum equal to the pension of a retired member of the Indian Civil Service whichever is less.

Provided that the Manager so appointed shall be a person on whom the Nawab Bahadur has full faith, and the Manager so selected or appointed shall furnish securities which will be a reasonable sum in the opinion of the Secretary of State for India ’.”

The mandate of my constituency is this : in Bengal, the Nawab Bahadur of Murshidabad is a big Zamindar : he has been occupying a big position amongst the zamindars of Bengal, but, in these days of retrenchment and things of that kind, perhaps Government will very seriously consider whether they will not like to suggest to the Nawab Bahadur to economise his expenditure. Personally I do not know who is the present holder of the coveted position of Manager to the Nawab Bahadur ; but this much I should say that he should not be getting any sum bigger than a first class City Magistrate in Bengal or, for that matter, the pension of a covenanted servant of the Crown, who retires after working in that province ; because we have precedents of estates perhaps quite as big—e.g., the estate of the Nawab of Dacca or of Mymensingh and other places in Bengal ; and if Government take a little trouble to ascertain really how much such Managers were getting there, I am certain they would not have any objection to accept this humble amendment. It seems that perhaps that bit of information is not available in the Department ; otherwise when they are going to do a good turn to the Nawab Bahadur, I am certain that they would have considered the sum of Rs. 850 or the pension of a Civil Servant, a very big sum indeed. If the present holder is getting more than Rs. 850, as against the debt to be discharged of nearly 20 lakhs, it seems to me that my amendment will not be a serious encroachment, rather a good saving. If Government have got a soft corner for the Nawab Bahadur of Murshidabad, if they want to do him a good turn, I am certain they should feel that even if he could be helped to save ten rupees from his budget, it will be a thing worth considering very seriously by Government.

I also wish that the Manager so selected or appointed should be personally known to the Nawab Bahadur, because I understand that perhaps Government in their benevolence go out of the way sometimes to foist things on people which they do not really like ; and the second part of my amendment, therefore, is this : that when they appoint a Manager,

[Mr. Muhammad Anwar-ul-Azim.]

it will be desirable even from an equitable standpoint to consult the Nawab Bahadur to see whether the gentleman, whom the Secretary of State may appoint as Manager, is one who would be able to pull on well with the Nawab Bahadur, because I do not think it is fair, least of all to the Government of India, to take advantage of the embarrassed position of the Nawab Bahadur and impose on him any one they like, simply because the Nawab Bahadur has gone to the length of contracting debts of doubtful considerations. The Nawab Bahadur may not dare to refuse anybody who might be foisted on him as Manager : so I say that when we are so solicitous, as it looks by the presentation of this Bill here, it would be as well to consult the Nawab Bahadur personally when they appoint the Manager.

I think that is all I need say on the present occasion with regard to the appointment of the Manager and the salary which he should draw. I am quite certain if a man who is not liked by the Nawab Bahadur is selected or appointed as Manager, things will not go on smoothly. Anyway, I know that there are very few chances of my motion being passed, but I have my responsibility to discharge in the matter, and, in answer to that, I have moved this amendment.

Mr. President (The Honourable Sir Shanmukham Chetty) : Amendment moved :

“ That to clause 3 of the Bill, the following further provisos be added :

‘ Provided that the salary of the Manager, so appointed, shall not exceed rupees eight hundred and fifty per month, or a sum equal to the pension of a retired member of the Indian Civil Service whichever is less.

Provided that the Manager so appointed shall be a person on whom the Nawab Bahadur has full faith, and the Manager so selected or appointed shall furnish securities which will be a reasonable sum in the opinion of the Secretary of State for India ’.”

Mr. S. G. Jog (Berar Representative) : I have great pleasure in supporting the amendment moved by my Honourable friend, Sir Anwar-ul-Azim.....

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : He has not yet become a “ Sir ” ; he expects to be one shortly.

Mr. S. G. Jog : Out of the whole bargain, Sir, if anybody stands to gain considerably, I think it is the Manager who will be appointed to look after this estate. I have not the least idea as to the income derived by the Nawab of Murshidabad from his estate and so I cannot say whether the salary of the Manager is proportionate to the annual income which the Nawab Bahadur gets. I do not think the responsibilities attaching to the post of Manager are so heavy as to require the appointment of a man on such a high scale. Moreover, we have to see, with due regard to efficiency, that whatever is saved goes to redeeming the debts which the Nawab Bahadur has incurred. The Political Department, I presume, is conscious of the sanctity of the payment of debts, and if my friend's amendment is accepted, I think it will go a great way to doing justice to a large number of creditors who have advanced large sums of money to the Nawab Bahadur.

While on this subject, Sir, I should like to point out that there are a large number of estates in India which can be similarly said to be encumbered. I have no idea whether they can properly be under the pro-

tection of the Political Department, but if the Political Department have shown their solicitude for this single estate, I feel that they should similarly extend their solicitude to other estates which are similarly encumbered, and adopt measures to protect those estates and other noble persons who are in the same position as the Nawab Bahadur of Murshidabad. At the same time, I should like to give a fair and friendly warning to the Political Department that for a long time they sit quiet, simply watch the movements of these nobles and potentates,—probably the Political Department never care to give friendly advice in time not to exceed their annual limits of expenditure, and, when things reach beyond the stage of redemption, when these people incur heavy debts, only then the Political Department comes in.....

Mr. B. Das (Orissa Division : Non-Muhammadan) : Can they interfere legally in these matters ?

Mr. S. G. Jog : Well, my engineer friend has raised a point of law. So far as I know, my friend does not dabble in legal points.

An Honourable Member : Of course, he does.

Mr. S. G. Jog : I am glad to find that he dabbles in legal points also, but, Sir, this is not the time to go into the legal aspects of the question. The measure is before us ; it has been passed by the Select Committee, and it is no doubt the duty of the Government to protect the Nawab Bahadur, and as such, I must congratulate the Political Department for condescending to come in proper time to protect the dignity of this Noble Lord of Murshidabad. At the same time, they must take into account the question of equity in favour of the several creditors who have advanced large sums of money to the Nawab Bahadur. I have no exact idea of the age of the present Nawab, but I am told that he was born in the Sixtees or somewhere thereabout. Let us know what are the chances of all these creditors getting their money back. I know this amendment has nothing to do with that question, but I do think that the pay is quite disproportionate to the annual income of the Nawab Bahadur, and it considerably affects the position of the creditors, and, from that point of view, the amendment has been placed before the House.

With regard to the question of taking security, I do not feel inclined to support that amendment, because the person who is selected must be a man of means. I do not think that there is any necessity of taking any security from the person who will be appointed as Manager. With these few observations, I beg to support the amendment moved by my friend.

Mr. B. S. Sarma (Nominated Non-Official) : Sir, I strongly oppose this amendment, and my reason is very simple. A Bengal Minister, a friend of mine, replied very properly when there was a motion in the Bengal Council, I think, some years ago, that his salary should be reduced to one rupee per year. He very gladly accepted that, he was willing to accept one rupee a year, provided it was a suggestion that with the approval of the Government and with the approval of the Members of the Legislative Council he would be allowed to take bribes. The present motion is something like that. Here is the family of the Nawab Bahadur with an income of several lakhs of rupees, and a man who is going to administer the estate on behalf of the Secretary of State must be a very big man and must be above temptations. To expect a man on a salary of about

[Mr. R. S. Sarma.]

Rs. 850 a month which a Deputy Magistrate in Bengal gets and to take up such a huge responsibility is, to my mind, unthinkable.

With regard to the second part of the amendment, Sir, the present Manager who is administering the estate on behalf of the Secretary of State, and who will probably continue to administer it on behalf of the Secretary of State under the new Act, is a man who has made a mark for integrity and ability in the Indian Civil Service in Bengal. He had held all the highest positions open to an Indian Civil Service man. He held the office of District Officer, he was Secretary to the Government of Bengal for a long time, he was a Member of the Board of Revenue and he was also Commissioner of a Division, and to expect a man of that ability and experience to work on Rs. 850 as is suggested in the amendment is, to my mind, absolutely impracticable. On these grounds, I strongly oppose the amendment.

Mr. Muhammad Muazzam Sahib Bahadur (North Madras : Muhammadan) : Sir, I would also oppose this amendment. Although I do not hold a brief, as my Honourable friend, Mr. Sarma, does, for the Manager, my anxiety is that in so far as it is the desire of the Secretary of State for India to protect the Nawab Bahadur and with that end in view to devise means and put into possession of the estate a Manager who would be able efficiently to discharge the functions that would be assigned to him under the Act, I think the Government of India is the proper authority which should be allowed to fix a reasonable salary for the work expected of the Manager. If I may throw out a suggestion, I would say that if the person to be appointed happens to be a retired Government official and if he gets an additional allowance for acting as Manager in addition to the pension that he has earned, I think a good portion of the money which would otherwise have to be paid to a man who is not in receipt of such a pension would be saved. I am not one of those who would suggest a particular sum, for instance, Rs. 850 or Rs. 950, for the man to be put in charge of this office. But I do think that by appointing a retired official much of the temptation which would otherwise attach to posts of this character would be done away with.

I find the amendment consists of two provisos ; one of which relates to the fixing of the salary of the Manager. It may happen that some of my Honourable friends are in agreement with that proviso and they want to oppose the other proviso. They should have been separately numbered. But for myself, I am opposed to both. The second proviso reads :

“ Provided that the Manager so appointed shall be a person in whom the Nawab has full faith, and the Manager so selected or appointed shall furnish securities...”

If it is the idea of the Government of India or rather the Local Government to appoint a person who is really in receipt of a pension, I do not think we need insist on his furnishing any security in the way in which my Honourable friend, Mr. Anwar-ul-Azim, desires. As for the confidence expected of the Manager, I would say, that unless the Manager has had relations already, for good or for evil, with the Nawab Bahadur of Murshidabad, I do not think that that question can come up at all. If you insist that the Nawab Bahadur should have confidence in the Manager, then the question arises, that generalising that position you

might as well insist that the Princes or Chiefs under the Court of Wards be first consulted as to the amount of confidence which they place in the Court of Wards. The Nawab Bahadur, as I can gather from the Act, is no better than a minor under the Court of Wards. As a matter of fact, the Manager will be in possession of the entire estate and he will exercise all the functions which, but for this Act, the Nawab Bahadur would have exercised, and as such I do not think that my Honourable friend is justified in demanding security from the Manager.

Mr. G. Morgan (Bengal : European) : I oppose this amendment and the grounds on which I oppose it have been already stated by the last two speakers. It is quite impossible to expect that for an estate of this size, with the responsibilities which would be on the shoulders of the Manager of this estate, a suitable Manager could be obtained for a salary of Rs. 850. We in the Select Committee had full details of the position, and there was no suggestion put forward that a limited salary should be given to the Manager. Sir, like the last speaker I hold no brief for the present incumbent of the post. I know him personally and I am sure he is quite suitable for the post, but I should not expect him to accept a post of this description on a salary of Rs. 850 with the responsibilities which are attached to that position. I understand that there would be about Rs. 3 lakhs after all payments under clause 7 with which he will have to deal....

Mr. Lalchand Navalrai : May I know how much he gets now ?

Mr. Muhammad Anwar-ul-Azim : Rs. 2,000.

Mr. G. Morgan : I do not know. With regard to the second part, I do not know really what the Honourable Member has in mind, but, as the last speaker said, the Nawab Bahadur is in the position of a minor under the Court of Wards. He gets Rs. 9,583-5-4 out of the estate and the management of the estate and the responsibility for that management lies on the shoulders of the Manager. I am quite certain that the Local Government will exercise the greatest care in the selection of a Manager for an estate of this description and I personally would feel every confidence in the selection made by the Local Government. Sir, I oppose the amendment.

Mr. Amar Nath Dutt (Burdwan Division : Non-Muhammadian Rural) : It appears to me from the title of the Bill that the present amendment is wholly outside the scope of the present Bill. The title of the Bill is :

“ A Bill to provide for the appointment of a Manager on behalf of the Secretary of State of the properties of the Nawab Bahadur of Murshidabad and to define the powers and duties of the Manager.”

That is all, and not emoluments, not to fix the emoluments. So, it appears to me that the present amendment is outside the scope of this Bill. However, as the amendment has been allowed, I beg to submit that I cannot agree with my Honourable friend, the Mover of the amendment. The first portion of the amendment wants to fix the salary of the Manager. Of course, I would be very glad if a Manager could be had not at Rs. 850, but even for Rs. 500 which is the maximum salary fixed for the Governor General under the Swaraj Government in future years. If my Honourable friend had moved his amendment on that ground I would have supported him. But, Sir, I cannot make out how he arrives at the figure of Rs. 850, and not Rs. 800 or Rs. 1,000.

The Honourable Sir Bepin Behary Ghose (Law Member) : Probably on account of the value of the gold mohur on the Original Side. I understand he is a Barrister.

Mr. Amar Nath Dutt : I am not a Barrister, I am an Indian Advocate for whose rights I have been fighting in spite of Government opposition. Probably 50 gold mohurs. I think his standard seems to me to be that of a member of the Provincial Executive Service. Even in that case, if my Honourable friend turns over the pages of any Civil List he will find that a selection grade Deputy Magistrate gets Rs. 1,000, and a selection grade Sub-Judge gets Rs. 1,200 now-a-days. So, Sir, he does not even go

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to the length of paying the highest salary of a member of the Provincial Civil Service and considering the responsible nature of the post and the halo and romance that hovers round the connection of the Government of India with that of Murshidabad, I think a more suitable salary is necessary, so long as the present state of salary continues in other departments of Government. (*Interruption by Mr. B. Das.*) About the romance every student of history knows. My friend being an Engineer does not probably know anything except Euclid. The salary provided here is certainly not adequate. I shall not enter into the personal question of whether the present incumbent deserves more or less but the sum suggested is insignificant. Then, Sir, the second proviso says :

“ Provided that the Manager so appointed shall be a person on whom the Nawab Bahadur has full faith.”

The present position to which the Nawab Bahadur has been reduced is partially, if not wholly, due to his having been guided by men in whom he had full faith. If he had other advisers then the estate would not have been reduced to the present position. What is wanted is that the man should be one in whom the Government has full faith. I cannot therefore support this amendment.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions : Non-Muhamadan Rural) : As a member of the Select Committee, I think it my duty to oppose this amendment. Very wide powers have been vested in the Manager under this Bill. I can appreciate the standpoint of any gentleman who may be opposed to vesting such wide powers in any man but once it is conceded that considering the exigencies of the situation the Manager must be entrusted with extensive powers, it will be unwise to fetter the discretion of the Local Government to settle the emoluments of the Manager, and an amendment of this kind is not necessary. A low paid man may fail to discharge the duties that have been enjoined on him in this particular Bill. As regards the other point, whether the Manager should be appointed after consultation with the Nawab, I make no secret of the fact that this Bill has been brought forward in order to protect the Nawab against himself. That was the reason why the Select Committee was induced to give such wide powers to the Manager, because in some of these decrees of the courts, there might have been the connivance of the Nawab himself. So under the circumstances it is against the spirit and the principles of the Bill to make the appointment of the Manager conditional to the approval of the Nawab Bahadur. On these grounds, the amendment will not be acceptable, I hope, to the House.

Mr. B. J. Glaney : With regard to the first part of the amendment, there are, as my Honourable friend, Mr. Jog, has pointed out, a good

many enactments which run on lines similar to this Bill, though I am afraid that the Political Department cannot take the credit for having invented them. There are, for instance, the Oudh Talukdars' Relief Act, the Chota-Nagpur Encumbered Estates Act, etc., and to the best of my knowledge none of these or any other enactments contain any provision on the lines of those which are now proposed and it does not seem to be necessary that they should be incorporated in this Bill. All matters pertaining to the salary or security, etc., of the Manager can, I think, be very safely left to the Local Government, the Government of Bengal. I would only point out that the claims against the Nawab now stand at Rs. 19 lakhs and it seems to me obvious that you must have somebody as Manager in whom perfect confidence can be reposed. It may be possible later on as things settle down to decrease the salary of the Manager and appoint somebody else on lower pay. As regards the second part of the amendment, after what my Honourable friend, Mr. Sarma, pointed out it is unnecessary for me to say anything at all, except that the Nawab Bahadur need have no cause for any apprehensions. In fact he has every reason to congratulate himself.

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is :

“ That to clause 3 of the Bill, the following further provisos be added :

‘ Provided that the salary of the Manager, so appointed, shall not exceed rupees eight hundred and fifty per month, or a sum equal to the pension of a retired member of the Indian Civil Service whichever is less.

Provided that the Manager so appointed shall be a person on whom the Nawab Bahadur has full faith, and the Manager so selected or appointed shall furnish securities which will be a reasonable sum in the opinion of the Secretary of State for India ’.”

The motion was negatived.

Clause 3 was added to the Bill.

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is :

“ That clause 4 stand part of the Bill.”

Mr. A. Das (Benares and Gorakhpur Divisions : Non-Muhammadan Rural) : Sir, I move :

“ That in clause 4 of the Bill, to the paragraph beginning with the word “secondly” the following proviso be added :

‘ Provided however the clauses firstly and secondly hereinbefore mentioned shall not be applicable to cases where any court of competent jurisdiction has passed a decree declaring any charge or lien on any specified income or incomes ’.”

In moving this amendment, it is not necessary to go into the details of the previous history of the Nawab of Murshidabad beyond 1838. At that time his stipend stood at Rs. 16,00,000 a year out of which Rs. 7,50,000 were allotted for his personal expenditure. Later on this stipend was reduced and certain privileges enjoyed by the former Nawab were abrogated. The salute of 19 guns was also reduced to 13 guns in 1869. The Nawab went to England to represent his grievances to the House of Commons which in 1871 rejected his appeal, by a majority of 57 votes. He continued to reside in England and following the old traditions of the family became heavily involved on which a Commission had to be appointed to arrange with his creditors on the 1st November, 1880. He resigned his position and renounced all

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rights of interference with the affairs of the Nizamath in consideration of an annual stipend of £10,000 and on payment to him of 10,00,000 in settlement of various miscellaneous claims and a suitable provision for his children born in England. Thenceforward the title of Nawab Nazim was replaced by the title of Nawab of Murshidabad which was conferred on Syed Hasan Ali Khan, his eldest son. Subsequently Syed Hasan Ali Khan was given the hereditary title of Nawab Bahadur of Murshidabad in 1882 and that of Amir-ul-Omrah. Subsequently Act XV of 1891 was passed and an indenture was attached to the Act for the support and maintenance of the Nawab Bahadur and of the honour and dignity of the estate. Since then he has been running recklessly wild in contracting debts in spite of the fact that he had sufficient income. Sir, from that time onwards to the best of my information he has been receiving a monthly sum of about 19,66,000 as a political pension. Besides this the income of the landed property ran to several lakhs annually. The House will easily see that the political pension and the private income is more than that of even the Viceroy of India and if any person cannot manage his household with such a large income whose is the fault ? He cannot be said to be a *purdahnashin* woman with no education. But on the contrary he has not only had Indian education but also European education and if a man cannot cut his coat according to his cloth whose is the fault ? I am of opinion that the passing of the Act of 1889 was itself a mistake and if anything the Government is responsible for inducing the habit of extravagancy in him by making him believe that his estate will be secure and giving him undue liberty to borrow as large as he can without any corresponding obligation of payment. Look at what was the result, although the protection provided was ample in 1891.

Mr. Muhammad Muazzam Sahib Bahadur (North Madras : Muhammadan) : I think my friend has strayed far away from the point at issue. What my friend has been saying is absolutely irrelevant to the amendment which he has moved.

Mr. A. Das : Still instead of having a check on his extravagancy it had the counter effect of increasing his habit of running into fabulous debts partly for consideration and it may be partly without consideration. The Government had paid him amply for relinquishing his title and estate and I do not know what further circumstances have come into light by which the Government have certainly become alive, as if by some prick of conscience, to wipe off his debts and pass another enactment of which the Bill is before the House without any regard to the just claims of those who have advanced money to him. When the money was needed the Nawab Bahadur adopted all sorts of cajolry and inducements to attain his immediate ends either by fair or foul pretences and he did obtain a certain amount of valid consideration. If he, in order to meet his immediate ends, when receiving the full consideration, entered into bonds and agreements for a larger amount, the fault was entirely his, particularly if it is looked at in the light of Act XV of 1891 from the point of view of the creditor, who had no security for his advance, because his immovable property was not liable to attachment under the said Act. Can a lender of money be blamed if, as an additional security for his debts, he took a bond of a larger amount than what had been actually advanced ? It is no argument to say that

because some money-lenders have entered into a partly shady transaction, therefore even the amounts which they have actually advanced should not be looked into. If this position is conceded, I am afraid, then the majority of the Members of this House would like to be in the position of the Nawab Bahadur of Murshidabad to borrow money and get out of their liabilities.

As to the private life of the Nawab, I am only to invite the attention of the House to a memorial submitted to His Excellency the Viceroy, copies of which I presume have been supplied to most Members of the House and since the information is more or less of a public nature, there is no harm in my inviting the attention of the House to the fact that the heir of the present Nawab Bahadur had married a Jewish girl whom he recently divorced and the Jewish wife had obtained a decree for *Denamahar* (for a dower debt of over a lakh of rupees) and the said heir-apparent, it is said, has again married an English girl lately divorced by her Bengalee husband. If a person chooses to enter into such matrimonial relations and after marrying once relinquishes her and thus involves himself in financial difficulties whose is the fault. How does the Bill propose to correct the heir-apparent of this habit, so far as such matrimonial connections are concerned so that he cannot marry as many wives as he likes and divorce them as early as he marries them and get out of his liability for payment of any dower debt and other debts that may be required for all such marriages and festivities concomitant on it with the result perhaps that after a few years another Bill of a more restricted nature will have to be passed in his favour.

Coming to the legal aspect of the case, the claim of one creditor Mr. Gunneriwala. It appears that in July, 1920, the present Nawab and his heir Murshada-Zaida Waris Ali Mirza took a sum of Rs. 5,00,000 as an advance rent of 21 years and gave a lease of certain immovable property and saw a third party. The persons who advanced the money in order to meet the liability transferred their lease rights to Mr. Gunneriwala for 5,45,000 from 1920 to 1927. The rents were regularly collected by the lessees and their representatives and, I am informed, that they made considerable improvements also in the property at their cost. In 1927 it appears that, in order to get out of this huge liability, the Nawab Bahadur filed a suit in the Calcutta High Court which was registered as Suit 1384 of 1927 for cancellation of the lease which was contested and finally Mr. Justice Page one of the well known High Court Judges of the Calcutta High Court passed a decree personally against the Nawab Bahadur for a sum of five lakhs which he had originally taken. Now, Sir, is it fair for one moment that this decree and suit which was contested should be reopened again by the Manager, however able he may be ?

In the first instance I wish to say what the Manager can do under section 9 of the proposed Bill. The argument which may be advanced in favour of the re-opening is that because this claim in the Appellate Court was compromised, therefore the Manager can re-open it. I say that it is a wrong position. I should say this is a wrong position. However, I do not wish to go into that question, but my submission is that when a decree has been obtained after contest that decree should certainly be respected and should not be allowed to be re-opened. Similarly, there are other claims which have resulted in decrees and which run

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to the tune of no less than 18 lakhs. I hope the House consisting as it does of people of sound mind and judgment who had considerable experience in business matters and many of them have or are having money dealings in banking will realise that if this Bill is passed into Act, which are the securities for the creditors whose debts extend to about 19 lakhs. Under the old Act the creditors cannot touch the personal or the movable property of the Nawab Bahadur and according to the present Bill, if passed, even no charge on the profits of the estate could be enforced and the litigation which ended in the High Court recently about which a Receiver was appointed for the estate of the Nawab Bahadur and the said Receiver was entitled to collect rents and profits of the leased property and which was confirmed by Privy Council, the highest court available in the land, all the proceedings which were not done behind the back of the Nawab Bahadur could be reopened by the Manager. So this security of appointing a Receiver no longer exists in favour of the creditor. The sacred person of the Nawab Bahadur is already exempt. Lastly all the decrees and claims to the extent of 19 lakhs would last only so long as the present Nawab Bahadur is alive. It is a very important point to which I would invite the attention of the House that he is already 60 years of age and in the interests of the creditors—I pray that he may have a life of over a hundred years—but from a business point of view when the average age in this country is not over forty there is no saying when an order may come from the Almighty to which neither this House nor any other authority in the world has any access and the whole debt of 19 lakhs will be wiped off in a moment. The heir-apparent will get into the estate without any debt and perhaps in a few years will run the same game as his father did and die leaving a large debt and with the death of the present Nawab Bahadur many of his creditors will also die a civil death in losing their money.

No doubt the Bill provides that the Manager can go into such debts and since his appointment is for the preservation and betterment of the estate his sympathies will always naturally be against the creditor and in favour of his present master, if as the saying goes in Hindustani he is at all true to his salt. There will be no judicial finding about it. He is given powers to sit in judgment over decrees even though they may have been passed after contest or consent by the highest court of competent jurisdiction. The appeal is not to any judicial authority but to the Board of Revenue. The Board would be more interested in supporting and maintaining the orders of its subordinate than in meeting its creditors. A pious wish has been expressed by seven members out of 12 who sat on the Select Committee that such decrees “will not be opened lightly” but the word “lightly” is a very flexible term. It has no legal meaning and it is not embodied in any part of the Bill. Therefore it is open to the Manager either to respect or to throw to the winds this pious expression of such opinion. The Bill provides no guarantee in this respect and unless it is embodied in the Act itself that such decrees will be taken as *prima facie* evidence of the respective debts, the creditor cannot be satisfied.

Mr. Lalchand Navaijai : But the Honourable the Political Secretary has given an assurance on behalf of the Government that these decrees will not be lightly re-opened by the Manager.

Mr. A. Das : Yes, he has given the assurance. But what is the objection to embodying this assurance in the Bill itself? An assurance given by one Member of the House may not be respected by a subsequent Government.

Mr. Lalchand Navarai : But it is an assurance on behalf of the Government.

Mr. A. Das : But it has no legal effect. It is not law. If it is embodied in the Act itself, then it will be legally binding on the Manager and decrees will be taken as *prima facie* evidence except in those cases where they were obtained by fraud or undue influence. I appeal to the fair sense of the House that in accepting this Bill they ought to be equally fair to the creditors, particularly when their security is so thin and limited to the life time of the present son. I do not know of any Act in India where the solemn decrees of a court of law based either on consent or contest can ever be challenged by any subsequent Act without its being shown that these decrees were obtained by fraud or undue influence. The decree in suit No. 1384 of 1927 which was passed for five lakhs by Mr. Justice Page and in appeal a consent-decree was passed for Rs. 6,50,000. What I want to submit is this. Even this Bill and the Act of 1891 went much further than Chota Nagpur Encumbered States Act or other similar Acts of any other province in limiting the liability to the life of the present Nawab Bahadur, the debtor.

So far as Act XV of 1891 existed although it limited the liability to the lifetime of the borrower, but it was under that Act that the lender had the right at least to the appointment of a Receiver who took the profits of the estate of the debtor and apply it towards the liquidation of the debt but even this small right is being taken away by the present Bill. I therefore think, Sir, that without the amendment which I have moved to be incorporated in the Bill it would be a very iniquitous piece of legislation and entirely one-sided for the benefit of a reckless and extravagant borrower without paying any regard to the hard earned money which the various lenders have advanced. I commend this amendment for the acceptance of the House.

Mr. President (The Honourable Sir Shanmukham Chetty) : Amendment moved :

“ That in clause 4 of the Bill, to the paragraph beginning with the word “ secondly ” the following proviso be added :

‘ Provided however the clauses firstly and secondly hereinbefore mentioned shall not be applicable to cases where any court of competent jurisdiction has passed a decree declaring any charge or lien on any specified income or incomes ’.”

Mr. R. S. Sarma : Mr. President, I must at the outset congratulate my Honourable friend, Mr. A. Das, on the masterly exposition of the legal implications of the powers that are conferred on the Manager under this Bill. Though he is a very quiet and unassuming Member of this House, my friend, Mr. Das, never touches any subject of which he does not make a very thorough study and I think this House ought to be grateful to him for the unselfish service which he has so ungrudgingly rendered to the public interest so far as this Bill is concerned. I, for one, would not only have supported this motion but would have also moved an amendment of this character because I do not think there is one single Member of this House who does not feel that the Manager, according to this Bill, is getting

—[Mr. R. S. Sarma.]—

extraordinary powers. Here is a Manager getting a couple of thousand rupees clothed with powers to re-open decrees of High Courts and of Privy Council and therefore, on the face of it, it appears we are giving him extraordinary powers even over the High Courts and the Privy Council. From that point of view, I am sure that there is a strong feeling that the Manager should not get so much powers and also there is a reasonable apprehension on behalf of the creditors that those decrees might be lightly re-opened and that they would suffer. But we had this afternoon a very thorough and unequivocal assurance from the Political Secretary on behalf of Government with all the responsibility due to his position that he is accepting the note of dissent or the terms of the note of dissent which myself and my colleagues have appended to the report of the Select Committee. On behalf of Government he has admitted that no Manager would lightly re-open any decrees under the powers which this Bill confers upon him but on the other hand these decrees will be accepted as *prima facie* proof of the respective debts. After this assurance which is made with absolute authority on behalf of the Government of India I think the purpose which my Honourable friend, Mr. Das, wants would have been served. Therefore, I should like to make an appeal to my Honourable friend to withdraw his amendment in view of the clear assurance given on the floor of this House. I think we owe it to ourselves that I should mention that in the Select Committee also the Government appreciated the apprehension of many creditors and also of those public men who really fear that there might be something in those apprehensions and the Government very gracefully came forward to make an assurance of this character. I think we are in honour bound to accept that assurance and withdraw the motion. Secondly, the Manager even if he should lightly re-open decrees, he is not the final authority in the matter. There is the Board of Revenue over him and there is the Bengal Government above them. If it is a Law Court, it may not take cognisance of assurances given in this Assembly by the Political Secretary. After all the Bengal Government is a subordinate Government to the Government of India and they cannot repudiate assurances given by the Political Secretary on behalf of Government of India on the floor of this House. Because of this, I will make an earnest appeal to my Honourable friend to withdraw his amendment and to thank the Political Secretary for his graceful assurance that he has given.

Mr. A. Das : Sir, may I ask one question ? Does this assurance confine itself only to those decrees which have been passed after contest or does it also apply to those decrees which have been obtained on consent ?

Mr. B. J. Glancy : It applies to all decrees.

Mr. A. Das : What is the legal difficulty in embodying this in the Act itself ?

The Honourable Sir Bepin Behary Ghose : The legal difficulty would be this that this Bill is not sought to be enacted with regard to a particular man but it is going to be a permanent legislation and will apply to all his descendants.

Mr. A. Das : Sir, I beg leave of the House to withdraw this motion. The motion was, by leave of the Assembly, withdrawn.

Clauses 4 and 5 were added to the Bill.

Lala Hari Raj Swarup (United Provinces : Landholders) : Sir, I beg to move :

“ That in sub-clause (1) of clause 7 of the Bill, in the paragraph beginning with the word ‘ fourthly ’ the words ‘ and improvements ’ be omitted.”

My purpose in moving this amendment is very simple. In this Act and the former Act the liability of the estate is only confined to the lifetime of the present Nawab Bahadur and by including improvements we are giving very wide powers to the Manager and if he chooses he can put down any amount on improvements and so the creditors can be deprived of their rights to get a rateable distribution in the profits of the estate. In view of this I will request Government to delete these words.

Mr. President (The Honourable Sir Shanmukham Chetty) : Amendment moved :

“ That in sub-clause (1) of clause 7 of the Bill, in the paragraph beginning with the word ‘ fourthly ’ the words ‘ and improvements ’ be omitted.”

Mr. B. J. Glancy : I should like to explain, Sir, that this point was discussed in the Select Committee, and these two words were retained because it was felt that sometimes minor improvements may save a great deal of money. They may avoid a multiplicity of repairs. For instance it may be a question of replacing a *kutchra* roof by a *pucca* roof.

Lala Hari Raj Swarup : Then you may say “ minor improvements ”.

Mr. B. J. Glancy : I am afraid there is a certain amount of difficulty in discriminating between major improvements and minor improvements. But here again I think things may very safely be left in the hands of the Local Government who are empowered under the Bill to make rules for the guidance of the Manager.

Mr. Lalchand Navalrai : Sir, as one coming from Sind, where an Act like this is in force, I think I am in a position to say that this amendment should be accepted. We have in Sind an Act, which is called the Sind Encumbered Estates Act, which is on similar lines, perhaps substantially the same with rare variations. There also the Act was enacted for the protection of the zamindars and landholders who have property for which they pay an assessment of more than Rs. 300. I submit that if this word “ improvements ” remains in the Bill under discussion, the creditors will be very much affected and it is that point which the Members on this side have been urging. If this word is there, any amount of money may be spent on improvements and that will certainly minimise the funds so that the creditors will suffer. I may say that the word “ improvements ” does not appear in many of the other Acts. In section 11 of the Sind Encumbered Estates Act, it is said :

“ From the funds received or recovered under section 10 the Manager shall pay, first, the cost of management including the cost of necessary repairs, etc.”

I say that there is every sense in the amendment that has been put forward.

Mr. G. Morgan : Sir, may I ask a question ? Is this the sole power of the Manager under this Act that the Honourable Member has quoted ?

Mr. Lalchand Navalrai : No, there are other powers also.

Mr. G. Morgan : Is it the Manager alone who has the power of repairs or has it to be approved by the Local Government or the Board of Revenue ?

Mr. Lalchand Navalrai : There also schemes have to be sent to the Commissioner for sanction. Sir, I think Government have been very sincere in giving us the assurance about the decrees not being lightly treated by the Manager of the estate although I would have been more glad if they had agreed not to re-open the decrees at all. In this Act, the word used is "claims" to be re-opened. I maintain that claim does not mean a claim which has been declared and determined by a Court of law to be paid.

The Honourable Sir Bepin Behary Ghose : Are there no such words as "decretal claim" ?

Mr. Lalchand Navalrai : The point is that it would have been more graceful for Government to have agreed to not re-opening decrees at all. But still we have accepted the assurance that the decrees will not be lightly treated and we have to thank the Political Secretary for it. But I submit that Government should not insist on retaining this word "improvements" and they should accept this amendment.

[At this stage, Mr. President (the Honourable Sir Shanmukham Chetty) vacated the Chair which was then occupied by Mr. Deputy President (Mr. Abdul Matin Chaudhury).]

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : The question is :

"That in sub-clause (1) of clause 7 of the Bill, in the paragraph beginning with the word 'fourthly' the words 'and improvements' be omitted."

The motion was negatived.

Clause 7 was added to the Bill.

Clause 8 was added to the Bill.

Mr. A. Das : Sir, after the assurance given by the Honourable the Political Secretary in this House, I do not move my amendment.

Clause 9 was added to the Bill.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : The question is :

"That clause 10 stand part of the Bill."

Mr. Muhammad Muazzam Sahib Bahadur : Sir, I move my amendment which is not even a drafting amendment, but perhaps a printer's devil : it runs as follows :

"That in the proviso to clause 10 of the Bill, for the words 'the further period' the words 'a further period' be substituted."

I may point out that in that clause "the further period" would be all right if there was a further period referred to previously ; but there is no further period referred to previously. I really think it is a printer's mistake and I hope the Political Secretary will have no objection to accept it.

Mr. Lalchand Navalrai : No further period referred to previously.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : Amendment moved :

“ That in the proviso to clause 10 of the Bill, for the words ‘ the further period ’ the words ‘ a further period ’ be substituted.”

Sir Lancelot Graham (Secretary, Legislative Department) : Sir, I am thoroughly confused, I must confess, by my friend, Mr. Muazzim’s amendment, because when I read the proviso to clause 10, I find “ the Manager may admit his claim within the further period of six months from the expiration of the period of six months specified in section 8 ”. I understand that his trouble is that “ the ” and “ a ” do not refer to the same period : I think he is right : actually there is a further period specified in section 8 : and this clause refers to a further period after that. Is that his point ?

Mr. Muhammad Muazzam Sahib Bahadur : Yes.

Sir Lancelot Graham : So that is correct. It is a very easy slip on the part of the draftsman : that is what has happened : it is not the further period specified in section 8 referred to : it is a further period of six months from that. So we would accept it.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : The question is :

“ That in the proviso to clause 10 of the Bill, for the words ‘ the further period ’ the words ‘ a further period ’ be substituted.”

The motion was adopted.

Clause 10, as amended, was added to the Bill.

Mr. Muhammad Anwar-ul-Azim : Mr. Deputy President, I do not really know that it is at all necessary to.....

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : The Honourable Member must move his amendment first.

Mr. Muhammad Anwar-ul-Azim : Sir, I move :

“ That to clause 11 of the Bill, the following proviso be added :

‘ Provided always that the Manager consulted the Collector of Murshidabad in this matter and his concurrence obtained thereon ’.”

From the trend of speeches on both sides of the House, I gather there are quite a large number of friends on both sides who are solicitous for the interests of the creditors, and I am glad to find that some sort of response has come from my friend, the Political Secretary, that these things will be considered by the Manager when they come up before him. But when I move this amendment, I can assure him that the report of the Select Committee is not my gospel, and I do not know that the Select Committee has said the last word for the benefit of the Nawab Bahadur of Murshidabad. If the Government are so solicitous as to do a good turn to the nobleman from whose ancestors they got this vast empire, I am sure, they would not have accepted this thing so blindly. Great capital was made of the Manager’s responsibility and that we should not grudge him a few thousands of rupees when his duty would be to handle 19 lakhs of rupees. I have had occasions to work with receivers in my part of the country and I know I had to give securities to the tune of Rs. 50,000 ; and here perhaps this gentleman—who I gather from my friend, Mr. Sarma, will be a retired mem-

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ber of the Indian Civil Service—will see that no wrong is done to anybody and that the policy underlying the Bill is faithfully carried out. But that is not my grouse. My grouse is this, that if Government want to be consistent in all matters, they should have asked this gentleman, the Manager, to find a decent security for himself and to give a personal security of a lakh of rupees, at least when he is to deal with this amount of money and the whole property. I, therefore, say that it will not be unfair of Government to consider this small amendment, that, in the determination of these debts, he should consult the Collector of Murshidabad who will be the live agent of the Government of Bengal at that centre.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : Amendment moved :

“ That to clause 11 of the Bill, the following proviso be added :

‘ Provided always that the Manager consulted the Collector of Murshidabad in this matter and his concurrence obtained thereon ’.”

Mr. B. J. Glancy : Sir, I should like to explain that, under the present Bill, an appeal lies from the Manager to the Board of Revenue. It appears to me that that is a much more appropriate arrangement than providing an appeal to the Collector of Murshidabad whose time is very fully occupied, and I am afraid that he would have no leisure whatsoever to deal with such matters. Nobody there has any useful knowledge on the subject, as most of these liabilities are not to people of the Murshidabad district, but to people in Calcutta.

Mr. Muhammad Muazzam Sahib Bahadur : Sir, I entirely agree with the observations made by the Honourable the Political Secretary. I believe that if the intention of the Mover of this amendment is carried into effect, every time the Manager comes to a decision on the amount that is due or on the rate of interest which is to be charged, he will have to consult the Collector whose hands, as I understand from the Honourable the Political Secretary, are already full with work. Sir, I oppose the amendment on the ground that it will create a lot of difficulty and will hamper the work of the Collector of Murshidabad on the one hand and it will not in any way be beneficial to the estate either.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : The question is :

“ That to clause 11 of the Bill, the following proviso be added :

‘ Provided always that the Manager consulted the Collector of Murshidabad in this matter and his concurrence obtained thereon ’.”

The motion was negatived.

Mr. Nabakumar Sing Dudhuria (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, in view of the assurance given by the Political Secretary, I do not want to move my amendment*.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : There is a similar amendment in the name of Mr. Muazzam Sahib Bahadur.

“ That to clause 11 of the Bill, the following proviso be added :

‘ Provided that the Manager shall accept the decrees obtained by the creditors of the Nawab Bahadur in the highest judicial courts as *prima facie* proof of their respective debts ’.”

Mr. Muhammad Muazzam Sahib Bahadur : Nor do I want to move my amendment*. I simply wanted to improve the amendment of my friend, Mr. Dudhoria, by substituting the word "evidence" instead of "proof". I do not want to move my amendment*.

Clauses 11 and 12 were added to the Bill.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : The question is :

"That clause 13 stand part of the Bill".

The motion was adopted.

Clause 13 was added to the Bill.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : The question is :

"That clause 14 stand part of the Bill".

The motion was adopted.

Clauses 14, 15, 16 and 17 were added to the Bill.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : The question is :

"That clause 18 stand part of the Bill".

The motion was adopted.

Clause 18 was added to the Bill.

Clause 19 was added to the Bill.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : The question is :

"That clause 20 stand part of the Bill".

Mr. Muhammad Anwar-ul-Azim : Sir, The amendment I wish to move is this :

"That to clause 20 of the Bill, the following further proviso be added :

'Provided always that the leases before they were finally settled had the approval of the District Judge of Murshidabad'."

Mr. Deputy President, it is common knowledge that anybody who handles leases and things of that kind, may even in cases where big properties are administered by *Mutawallis*, they cannot ride rough shod over a District Judge. Even a *Mutawalli*, a privileged man of his position, has got to come to the District Judge and obtain sanction in cases of leases of wakf properties. Normally the time granted is five years. Of course, without prejudice to the unlimited power which is being given to the Manager under this Bill, I should like to suggest this much, that provision should be made to see that the District Judge of Murshidabad should see whether the leases granted by the Manager are in such form as to safeguard the interests of all concerned, because it is far from me to suggest anything with regard to the powers you propose to give to the Manager, but the outside public will laugh at the

"That to clause 11 of the Bill, the following proviso be added :

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wide powers which this Bill is granting to the Manager, because when lakhs and lakhs of rupees are involved in big estates, and they are administered in a fiduciary manner, the matter has to come up before the District Judge, and I do not know why the Manager should be exempted from bringing his draft leases to the District Judge in this case also. Permanent leases, when granted, should not be granted so light heartedly.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : Amendment moved :

“ That to clause 20 of the Bill, the following further proviso be added :

‘ Provided always that the leases before they were finally settled had the approval of the District Judge of Murshidabad ’.”

Mr. G. Morgan : Sir, I only want to draw the attention of my friend, the Mover, when he says that this measure gives unlimited power to the Manager, that with the exception of those powers granted under 28 (c), the approval of the Local Government has to be obtained before leases are sanctioned and presumably registered. Sir, I oppose this amendment.

Mr. Gaya Prasad Singh (Muzaffarpur cum Champaran : Non-Muhammadian) : Sir, I also rise to oppose the amendment just moved by my friend, Mr. Anwar-ul-Azim. Clause 20 of the Bill seeks to clothe the Manager with the power of dealing with immovable properties, and it also gives him power to execute leases of immovable property. From what I can gather, I believe the power of the Manager in this matter is always subject to the approval of the Board of Revenue and ultimately to the Local Government. So I do not think it is either necessary or desirable to interpose the authority of the District Judge in all matters. In the first place, the District Judge is over-worked as the District Magistrate is, and, for the reason adduced in throwing out the last amendment, I think this amendment also cannot be accepted by this House, because the Bill gives power to the Board of Revenue to intervene in these matters when leases are granted, and in case an appeal has to go up, the final authority is the Local Government, and so I don't think it is necessary to add this proviso to clause 20 of the Bill. Sir, I oppose the amendment.

Mr. Muhammad Muazzam Sahib Bahadur : Sir, as a matter of fact, we have in clause 20 itself what I may call a dual check, a check which is referred to in this clause and embodied in clause 28 (c) as Mr. Morgan has just pointed out, and we again have it under clause 20 that if the settlement of the estate of the Nawab Bahadur by the Manager is such that it is in perfect accord with the provisions of clause 28 of the Bill, no difficulty arises, but if the settlement goes beyond those provisions, as I take it, he has to obtain the previous sanction of the Local Government,—in this case it is the Government of Bengal. For these reasons, Sir, I oppose the amendment.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : The question is :

“ That to clause 20 of the Bill, the following further proviso be added :

‘ Provided always that the leases before they were finally settled had the approval of the District Judge of Murshidabad ’.”

The motion was negatived.

Clauses 20 and 21 were added to the Bill.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : The question is :

“ That clause 22 stand part of the Bill ”.

Mr. Muhammad Anwar-ul-Azim : I should like to place this also on record, I mean my amendment.....

Mr. Gaya Prasad Singh : Why don't you read the amendment first !

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : The Honourable Member will please read out his amendment
4 P.M. first.

Mr. Muhammad Anwar-ul-Azim : I move :

“ That after sub-clause (3) of clause 22 of the Bill, the following new sub-clause be inserted :

‘ (4) And that the Collector of Murshidabad or the Commissioner, Presidency Division, shall audit the accounts every year and send a report to the Board of Revenue ’.”

Mr. Deputy President, I do not know why these amendments are so very touchy or act as a bugbear to my friends on the right. It seems, in their inordinate hurry to pass this Bill, they lose the common courtesy of not disturbing a Member who does not ordinarily take part in debates in season, and out of season. Nowhere in the Bill, from start to finish, do I see any provision as to how these accounts are to be kept as is kept by the Court of Wards. It appears as if the Government of India want to give a blank cheque to the officer. He will not be accountable to anybody and his actions and conduct will not be subject to any check. As regards the Court of Wards, the Manager will have to carefully keep his accounts in the prescribed form, because over him he has the District Magistrate, then the Commissioner, and then the Board of Revenue. In this case, there are no checks, and I should like very much to know from the Political Secretary what check he has provided in the body of the Bill over the vagaries of any Manager of this estate.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : Amendment moved :

“ That after sub-clause (3) of clause 22 of the Bill, the following new sub-clause be inserted :

‘ (4) And that the Collector of Murshidabad or the Commissioner, Presidency Division, shall audit the accounts every year and send a report to the Board of Revenue ’.”

Mr. B. J. Glancy : Sir, I should like to draw the attention of the Honourable Member to clause 28 (2) (b) of the Bill which deals with the matter of audit. The Board of Revenue will, no doubt, make rules about the manner in which the audit shall be conducted, and when they come to do so, I should imagine it is more likely that they would entrust that function to the Accountant General or the Examiner of Local Fund Accounts than to a busy administrative officer such as the Collector of Murshidabad or the Commissioner of the Presidency Division.

Mr. G. Morgan : I have been looking through this Bill to see under what clause or rule this audit will take place. I did not catch the Honourable Member's reference.

Mr. B. J. Glancy : Clause 28 (2) (b).

Mr. G. Morgan : I am sorry. That is all right. I am satisfied and oppose the amendment.

Mr. Gaya Prasad Singh : Sir, I do not understand the head or tail of this amendment. If my Honourable friend had been a little more careful in studying the Bill, he would have found that the check which he likes to insert in the Bill has already been provided, and we in the Select Committee looked into the matter carefully. Clause 22 provides :

“All orders or proceedings of the Manager in the exercise of his functions under this Act shall be subject to the supervision and control of the Board of Revenue.”

As has already been pointed out by my Honourable friend, the Political Secretary, under clause 28 (2) (b) :

“The Board of Revenue may, with the previous sanction of the Local Government, make rules for the purpose of carrying into effect all or any of the provisions of this Act.

(b) the procedure to be followed by the Manager in the discharge of his functions under this Act, the accounts which shall be kept by him, and the manner in which such accounts shall be audited.”

I understand that the proper authority to audit the accounts will probably be the Auditor General or any authority subordinate to him. It is really meaningless to ask the Collector or the Commissioner of the Division to audit the accounts of a big estate like the estate of Murshidabad. This amendment is absolutely unnecessary, and I strongly oppose it.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : The question is :

“That after sub-clause (3) of clause 22 of the Bill, the following new sub-clause be inserted :

‘(4) And that the Collector of Murshidabad or the Commissioner, Presidency Division, shall audit the accounts every year and send a report to the Board of Revenue.’”

The motion was negatived.

Clause 22 was added to the Bill.

Clauses 23, 24, 25, 26, 27 and 28 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. B. J. Glancy : Sir, I move that the Bill, as amended, be passed.

Mr. Deputy President (Mr. Abdul Matin Chaudhury) : Motion moved :

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

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

Mr. B. R. Puri (West Punjab : Non-Muhammadan) : Sir, I come from a constituency which is within sixty miles of Peshawar, and, therefore, it seems rather a far cry that a Member interested in the affairs of the

extreme north should feel interested in the domestic affairs of a Nawab who is flourishing in the interior of Bengal.

I would not have undertaken this unnecessary responsibility of addressing the House on this question had it not been for a conscientious objection which I have against this class of legislation. A piece of legislation of this kind does no credit to the Government who are promoting it or to the Legislature who are about to pass it. Sir, I take it that the basis of all sound legislation is a just and equitable recognition of the rights of the people whom that legislation affects. The present Bill appears to me to be a flagrant example of the rights established through Courts of justice being flouted and made subject to the whims and arbitrary decisions of a mere "Manager", no matter how lofty his position may be. I know, Sir, that the measure will in all probability go through, but that does not worry me in the least. I have to get my protest recorded against a measure of this kind, passing or not passing the measure depends upon the temper of the House. What really pains me is this, that a distinguished lawyer who has himself adorned the Bench of the premier High Court of the country and who moreover comes from a stock which has produced the greatest modern Indian jurist, the late Sir Rash Bihari Ghose, should be a party to a legislation of this kind, a legislation so fundamentally unjust and iniquitous. What is the principle of this Bill? The principle of this Bill, put in ordinary plain English, appears to me to be nothing less than this. Here is a man who appears before you with a decree of a judicial tribunal and you turn round to him and say that in spite of the fact that you have got the best authority in your favour, we decline to do anything for you, because we feel bound to protect a person who is a waster and has led an extravagant life, if nothing worse. That, I understand, is the plain and honest truth. It appears to me that these judicial decrees are going to be ignored in order that the Nawab should continue to come out in the public in his "carriage and four", or that he may not be forced to cut down the number of his wives, and that he may still have 30 or 40 dishes on his table, while an ordinary mortal would be content with say $\frac{1}{10}$ th of it. In order to maintain such artificial dignity, you are going to the length of flouting and throwing to the winds the judicial decrees of the highest tribunals in this country. If that is really the basis of this Bill, if that is the underlying principle of this Bill, the less we have to do with such a piece of legislation the better for the good name of this House. Look at it from the creditor's point of view. I am free to admit that when dealing with spendthrifts and people of extravagant habits, people do generally get their advances exaggerated in their deeds which they obtain from their debtors. That is common knowledge and one cannot shut one's eyes to that. This is done because there is always the possibility of some of these transactions being held to be unconscionable bargains in a Court of law or else the Court considers that the terms are exorbitant, or the rate is too high and thus sometimes the whole claim is thrown out or materially reduced. Such being the dangers and the risks to which the creditors are exposed, one cannot blame them for exaggerated amounts entered in their securities which they obtain from their debtors, but there must arise some stage or other when all such questions should be deemed to have come to an end. That occasion and that stage comes when the matter is brought up on the judicial anvil, and when both the parties, after having had a fair trial and after contesting the suit, the Court pronounces its

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decree. I think that all doubt should, thereafter, come to an end, and once a decree is passed, nobody has the right to say that the particular claim covered by the decree was in any way or to any extent tainted. That decree must be accepted as the final pronouncement of a Court of law and it will be an evil day if such decrees of judicial tribunals were ignored, because thereby people will come to lose their confidence in the impartiality of the Courts of justice and they will come to believe in the impotency of the Courts and in the ineffective character of judicial decrees. That will be an evil day for us, because there will be no peace and no order left in the land. Sir, the fabric of this Empire depends upon our perfect faith in the judicial pronouncements and I say that a decree passed by any Court of justice, even the lowest, is entitled to the same respect which you show for the decrees passed by the highest Courts. Need I remind my Honourable and esteemed friend, the custodian of the Legal portfolio of the Government of India, of the sacredness and sanctity of the decrees which he himself must have passed as a Judge of the High Court? They are passed by the grace of God, and, in the name of our Sovereign, under my orders and seal of this Court. If ultimately the decrees are to be flouted, kicked at and ignored, why have this farce of judicial trials, why have all this comic show. You put up palatial structures. You build up your High Courts. You put there High Court Judges in scarlet robes with long wigs. You give them very high salaries and when, ultimately, after parties have had their trial and a decree is passed, instead of respecting that decree which a person has obtained after spending a good deal of money and labour and after having undergone a great deal of expense and worry, does it lie in your mouth to say that for the sake of benefiting an unworthy man, you will trample under your feet such judicial pronouncements as the judicial decrees? This is from the creditor's point of view.

Now, Sir, with regard to the person for whose benefit all this legislation is being introduced. Let us try and get a clear idea of the person for whom this extraordinary solicitude is being shown by the Government. Sir, I take it that the Nawab is not a charitable institution and, therefore, need not be kept and maintained at public expense. If anything, he is a relic of what the ancient Nawabs and Rajas used to be. He is probably a sample of those Nawabs and Rajas who have contributed in no small measure to our present state of slavery. Why perpetuate such careers in order to put them up to the ridicule and contempt of the world outside? Has not the time arrived when we should put an end to it? Are not the past misdeeds of this gentleman your sole excuse for bringing forward this piece of legislation? Does it lie in your mouth to help and encourage a man who cannot manage his own affairs and who is guilty of having carried on a most extravagant life, so that he may continue and perpetuate that sort of a career? Sir, if, from higher Imperial considerations, such an exhibit must be preserved, then may I submit that he may be removed to the British Museum and let the British Exchequer pay for him. We have no necessity for him here. So far as we are concerned, we are sick of such-like Nawabs and such-like Rajas. These are the general considerations on the basis of which I conscientiously feel that it would not do us credit to pass such a measure nor will it do the least credit to the Government who are sponsoring this Bill.

Coming now to the measure itself, let us examine it on its own merits. We find it stated in the Statement of Objects and Reasons :

"That the machinery for the exercise of such management by the Secretary of State was not, however, provided for in the Indenture and it is to supply this that the present Bill is designed."

Now, I do not wish to read the whole Indenture as it is a very long-winded document, but the words which bear on the point with which I am dealing are these : in the event of the Nawab behaving or misbehaving in a particular manner, this will be the consequence and I will read that governing sentence. It reads :

"The net rents, issues, profits so to be received and taken by the Secretary of State as aforesaid shall be applied for the benefit of the said Nawab Bahadur of Murshidabad."

Now, Sir, the power secured under this Indenture in favour of the Secretary of State is that on resuming and taking over the possession of the properties of the Nawab, he will proceed to realise all the rents and profits, and what will he do with it ? It shall be applied for the benefit of the said Nawab of Murshidabad. Now, Sir, what a convenient interpretation the Government are putting on these words. This phrase "for the benefit of the Nawab of Murshidabad" is now being interpreted by means of the present Bill to give the Secretary of State powers unheard of, namely, that he can altogether ignore and refuse to entertain or even consider any claim, no matter even if it is merged into a decree. Sir, I maintain that there is no justification for putting such flagrantly wide interpretation upon the word "benefit". Is it not to the benefit of the Nawab of Murshidabad that all his just claims were paid off ? Is not there a legal as well as a moral obligation *even upon a Nawab* to pay off his liabilities ? Are Nawabs and Rajas beyond the pale and outside the scope of the moral obligations to which we ordinary mortals are bound ? Can it be urged, on behalf of this Nawab, that it is to his benefit if all the people with their decrees in their hands passed by the High Court were kicked out and told : Go back, this Nawab must be maintained at public expense ; your decrees are of no use. Sir, there is no justification either, legal or moral, for putting such a convenient interpretation upon the word "benefit". All that the Secretary of State could ask was that, since he personally cannot manage, he should be given powers to have this estate managed through a Manager, a Deputy or an Agent. That would have been a perfectly legitimate claim. But, while asking for that, they have surreptitiously introduced most diabolical powers, most extensive powers, which this Bill is supposed to confer upon the agent of the Secretary of State when the Secretary of State himself does not possess any one of those. Where is it recorded in this Indenture that the Secretary of State shall have the power to ignore or to refuse to entertain the claims judicially determined by the highest Court in the land ? I would like to know—and I will wait with patience—on what principles of interpretation a case can be made out that this word "benefit" covers and entitles Government to do all sorts of acts of this iniquitous character ? I submit that neither on the broad principles is this Bill a sound measure, a just measure or an equitable measure, nor are on merits the powers, which are now being conferred upon the Manager, the powers which are either consistent with the

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words and the language of the Indenture upon which the whole superstructure is being built. On these grounds, I submit that this measure is bad from every point of view and should be thrown out.

Pandit Satyendra Nath Sen (Presidency Division : Non-Muhammadan Rural) : Sir, I beg to support the view so eloquently expressed by my Honourable friend, Mr. Puri. I, too, am opposed to such legislations on principle. In spite of the redeeming features of this Bill, in consideration of the peculiar and extraordinary position of the person concerned, this Bill is to be regarded as an extraordinary one. Indirectly this Bill puts a premium on profligacy and extravagance. It is true that the Government have given some assurance in regard to the finality of the judgments passed by the highest Courts. But I understand these assurances have no legal value, and without these safeguards, I am constrained to say, this Bill is opposed to all sense of justice and jurisprudence. It grossly violates the principle of *res judicata*. When a judgment has been finally passed, it cannot be reopened by anybody. Sir, from the point of view of creditors, the consequence of such a legislation will be disastrous. Those people who, instead of taking up more fighting occupations, take up the rather peaceful occupation of money-lending, are, after all, to be regarded as important limbs of the social body, and if the money-lenders lose confidence in the people, as well as in the State, the consequence will be detrimental not only to the poor, but also to the wealthy, all of whom are having hard days at present. With these observations, I beg to record my opposition knowing full well that it will be of no avail.

Mr. S. G. Jog : Sir, I most heartily congratulate my Honourable friend, Mr. Puri, on the righteous indignation which he has shown over the measure before the House. I find he has not been taking any part in this measure, but I thought there was some deliberation behind it. It was a lull before a storm. After all, when the measure had reached the third reading stage, somehow or other a man from the Punjab would not resist the temptation of putting in his emphatic protest at this unrighteous legislation. My Honourable friend had discussed the question from all points of view. He has discussed it from the moral point of view, he has discussed it from the legal point of view and I, for one, have no mind to detain the House any longer. But, really speaking I would not have taken further part in this discussion except for some defects or flaws in this Bill to which I should like to draw the attention of the sponsors of the Bill even at this stage.

I should like to draw the attention of the House to clause 9 which refers to the presentation of claims and a further provision which relates as to when the claims are time barred. The law, as it appears to me, has ignored all the canons of other laws. I will take particularly one point, I mean the law of limitation. There is a particular provision in the law of limitation to the effect that any claim, so far as persons under disability are concerned, such as a minor, no claim is barred against him. I should like to ask the Honourable the Mover of this Bill whether there is any provision incorporated in this Bill so as to save the rights of minors and other persons under disability. There are a number of creditors who have got their claims against the Nawab and by this measure they are called upon,

after due notification, to present their claims within six months and a further time is given for some reason for another six months. Supposing there are minors amongst the decree-holders or any persons under disability, is it to be understood that, after 12 months, if the minor does not come forward or any other person under disability does not come forward, his claim is barred. Has he no remedy and is he to get nothing out of the estate? May I respectfully ask whether there is any provision in the measure before the House? Is it not necessary that there should be some provision in the interests of the minors and other persons under disability or are you going to ignore all the laws? You want to defraud the creditors by this arrangement and you also want to defraud the minors who may be innocent and who may not be able to present their claims. I hope that before we pass this Bill, I should like to know whether there is any remedy provided in this measure to meet this contingency.

Sir, nobody on this side of the House is happy over this Bill. We must admit that this measure has no moral back ground, but I should like to say that there is no evil without any good and there is no good without an evil. Once in a way this measure will serve as an eye-opener to the creditor class and once in a way it will also serve as an eye-opener to those persons such as Nawabs and Rajas who lead a profligate life. Let the money-lender know that, before having any dealing with these people, he would run great risk of losing his money entirely. If this measure has got the effect of killing the credit of the Nawabs, it will also make the money-lender more wise and teach him a good lesson. I think, to that extent, this measure will serve as a useful one.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Sir, I intended to be a silent spectator in the discussion of this Bill and not to say a word, but the speech of my Honourable friend, Mr. Puri, especially when he appealed in the name of God, urged me to say a few words. Had he simply brought forward the legal point of view, probably I would have remained on my seat, but when he has appealed in the name of God, I thought I should say something about it.

In the first place, about the mismanagement of the estate of Murshidabad, I entirely agree with him. Had he and his ancestors not mismanaged their estate, then the history of Bengal and, I may even say, the history of India would have been different. Now, as regards the second part of his speech about the Princes, Nawabs and Rajas, I think probably he put down his note, for the Princes (Protection) Bill, and he delivered it at a wrong time. But I should like to draw his attention and the attention of the Assembly to one point which he as a lawyer ought to have considered. It happens in a large number of cases,—and they have come to my knowledge, and I know it has happened in the case of Murshidabad also as I stayed with the Nawab Bahadur some time ago when I was a member of the Calcutta University Commission,—that several persons secured pro-notes for very large amounts which really they never paid. That is a point which probably a lawyer cannot consider, but which we, who are not lawyers, cannot entirely overlook.

Mr. B. R. Puri : May I inform my Honourable friend that I was speaking on this very point for nearly five minutes?

Dr. Khauddin Ahmad : Very often the pro-notes have been written, not on receiving the full amount, and sometimes on receiving no money or a very small portion. Such loans are not honest transactions, but they are speculations. I have no sympathy for speculators in currency or in loan advancing and this point we cannot overlook. And, in this case, I must congratulate—though I seldom congratulate—the Foreign Secretary for bringing a measure of this kind which was urgently needed. And I say that when it is the policy of the Government to protect landlords and other ancient families, I see no reason why that protection should not be extended in this case.

Mr. Muhammad Muazzam Sahib Bahadur : Sir, my Honourable friend, Mr. Puri, in his observations on the Bill referred first of all to the point of view of the creditor. I wonder if my Honourable friend knows that debts due from the Nawab Bahadur are only good for the life of the Nawab. The moment he dies, the creditors cannot recover a pie from his estate. Taking that as the basis of these debts, it is a matter which one can easily understand whether a creditor, who is prepared to advance money to a person in the position of the Nawab Bahadur, will really,—taking the risk that the debt is only good for the life of the Nawab Bahadur in any case,—pay the full amount of any debt. Although I would not ask the Manager to treat this general inference as the basis for his decisions, still one may fairly ask from the nature of the transactions which have been carried on by the Nawab Bahadur, on the basis, as I said, of the duration of the debt for the life of the Nawab Bahadur, whether the element of speculation and dishonesty does not enter into each one of these transactions.

Sir, my Honourable friend, Mr. Puri, when he began his speech, said that measures like these tended to shake the confidence of the public in decrees passed by the highest tribunals of the land. Does my Honourable friend, Mr. Puri, really think that we are legislating in respect of a matter which is of universal application ? It is confined to a single individual, a person who in days gone by,—or at least his ancestors,—had secured to the Government of the day the revenues of Bengal, Bihar and Orissa ; and, in consideration of the services rendered by the Nawab, the Government of the country, in gratitude for those services, if I may say so, allowed him a fairly decent pension to begin with, which from time to time has had to be curtailed and is now at the figure of Rs. 20,000 or so a month. I understand that when the pension was first fixed, it was something like a lakh and a half per month. Is it the idea of Mr. Puri that, in these days of so-called democracy, all high stations and all these princely distinctions should be done away with altogether and that, instead of having awarded to the Nawab Bahadur a monthly pension suited to his rank, Government should have treated him as any other person and should have denied to him what they have given ? I understood him to say at least that much. And am I to understand that even in these days of so-called democracy, we have democracy working to its full extent ? Sir, if the Government had gone out of the way to frame a legislation which might save the honour and dignity of the Nawab Bahadur by implementing the pledges given by the Secretary of State to him, I ask, are the Government doing anything wrong ? Is it not a duty which the Government owe to the Nawab Bahadur ? It is easy to argue on general lines and I personally would agree entirely with

Mr. Puri if this had been a measure of universal application. But it happens to be a restrictive measure and his remarks cannot apply to an extraordinary measure like this. Then, Sir, so far as insolvency proceedings are concerned, I may call my Honourable friend's attention to the fact that the bankruptcy Court has got certain powers which ordinary Courts do not have. The bankruptcy Court can go behind High Court decrees; it can revise decrees passed by consent; it can revise decrees passed on compromise. May I read a small paragraph from Halsbury's Laws of England, Volume II, page 57, dealing with non-compliance with bankruptcy notices? This is what it says:

"Where such an act of bankruptcy is relied on, the judgment is conclusive in the bankruptcy Court, unless the consideration for it can be questioned; the Court may, however, for the purpose of determining whether a receiving order should or should not be made, go behind the judgment and inquire into the consideration for it, and on finding that there was no valid or legal consideration for it, may refuse to make a receiving order. This may be done at the request of the debtor, even where the judgment was by consent, estoppel not applying as against the bankruptcy court. Even where the Court of Appeal has refused to set aside the judgment, the bankruptcy court may still go behind it and inquire into the liability on which it is founded. So if the judgment has been obtained by the compromise of an action, the bankruptcy Court may none the less inquire into the consideration and reject the debt, if it finds that the compromise, though not fraudulent, was unfair and unreasonable."

With these remarks, I submit that the Bill before the House is very reasonable and should be passed.

The Honourable Sir Bepin Behary Ghose: Sir, when I heard the Honourable Mr. Puri, I thought that I was present at a meeting of radicals. I may confess that I have a little bit of radicalism in me, but I must also point out that the policy of the British Government here in India and also, I may say, in their own country, is to maintain the dignity of ancient families....

Mr. B. B. Puri: Not at the expense of others!

The Honourable Sir Bepin Behary Ghose: Now, what is the good of these many—I think there are about 20—Acts, Court of Wards Acts, in this country, under which the Court of Wards takes possession of the property of minors, widows and disqualified proprietors who are wasters and cannot manage their own property? And then what is the good of all these Encumbered Estates Acts, and Acts which protect the Oudh Talukdars? I do not think there is anything like these in the Punjab for, if there had been, then probably my friend, the Honourable Mr. Puri, when appearing on behalf of minors or widows or disqualified proprietors under the Court of Wards, would not have been so eloquent on behalf of the creditors. In my time I have heard many eloquent speeches, and I must say that the speech of Mr. Puri is a very eloquent one—but rarely did I hear such an eloquent appeal on behalf of money-lenders. Mr. Puri has been insufficiently briefed. He is holding in this matter a brief for the creditors. Now, what sort of creditors are they, advancing money to a person whose tenure is only for his life? Whether rightly or wrongly, under the Indenture and under the Acts, under which the Nawab Nazim of Bengal surrendered his exalted position and his exalted title and obtained the humbler title of Amir-ul-Omrah and Nawab Bahadur—of course there are hundreds of Nawab Bahadurs, but Amir-ul-Omrah is the Premier Noble of Bengal—protection has been given to him; and it has been the policy of Government that the Premier Noble of Bengal should not go about the streets begging money from this man or that. Therefore, all the property that has been conferred upon him by the Government which

[Sir Bepin Behary Ghose.]

was purchased by sale of his own jewellery—and not at the public expense.....

Mr. B. R. Puri : What about the descendants of the Mughal Emperors who are going begging on the streets and starving ?

The Honourable Sir Bepin Behary Ghose : Quite true : when I came first into this Assembly, I heard people shedding tears for the descendants of Tipu Sultan ; but Tipu Sultan was conquered : he did not cede anything by treaty, while the Nawab of Bengal ceded his dignities and territories by treaties. The English did not really conquer Bengal by the battle of Plassey. Mir Jaffar was set up by the great landowners of Bengal and then, after subsequent treaty after treaty, the Nawabs surrendered the sovereignty rights to the English Company ; and, on account of that, the British Government, out of a sense of gratitude, gave them Rs. 64 lakhs at first as an annuity : it was reduced afterwards to a lesser sum of about 16 lakhs ; and, with regard to the State jewellery, these were sold and properties were purchased with that money, and not with our taxes ; and then those properties were given to the Nawab Bahadur of Murshidabad for enjoyment for life only. Now, if a creditor knowing—and he must be supposed to have known this—advances money to a man who holds a life estate only, and knowing also the insecurity of life—what would you say of such a creditor ? If the Nawab Bahadur had died of an attack of cholera that night—would the creditor have had a single pice ? No. Then, what was he ? An honest creditor ? I should say he was a speculator or a gambler ; and if a lawyer of the eminence of the Honourable Mr. Puri stands up and says “ Oh, these are just creditors ”, I can only say that his heart is flowing with the milk of human kindness for those who do not deserve a single moment’s pity.

Mr. B. R. Puri : Does my Honourable friend recognise that he is really putting a slur upon the High Court Judges who decided some of those cases ?

The Honourable Sir Bepin Behary Ghose : I should be the last person to cast a slur on High Court Judges : of course practitioners at the bar may. They are privileged to call a High Court Judge a fool ; and I might have been called so in my time ; but I cannot now question either the integrity or correctness of whatever may have been decided by a High Court Judge : I would not do it even if I had felt it. However, what can a High Court Judge do ? The Nawab is not an infant : he is not a lunatic. If he executes a bond of, say, five lakhs after getting only one lakh, can he stand before the Court and say : “ No, I got one lakh, but signed for five lakhs ? ” Which Court would listen to him ? Which lawyer would advise him to write such a thing in his written statement ? Therefore, any High Court Judge would say : “ Yes here is the bond ; here is the promissory note...”

Mr. Amar Nath Dutt : Is not want of consideration often pleaded in law Courts ?

The Honourable Sir Bepin Behary Ghose : But you must remember this, that when there is an attorney and a barrister drawing up a written statement, these two lawyers, through whose hands the written statement passes, and any lawyer worth his salt would say : if a man, in the position of the Nawab Bahadur, desired to plead want of consideration, “ No ; and

not urge that plea, because it will at once be considered to be false". Therefore, the Nawab Bahadur, in order to maintain his respectability, cannot urge such a plea.....

Mr. B. R. Puri : Is that the position, that the Nawab puts up a false plea merely to maintain his dignity ? We would like to know.

The Honourable Sir Bepin Behary Ghose : No, not the Nawab only ; but I am speaking for a respectable lawyer, because no respectable lawyer would put his hand to such a written statement of a person who is neither a minor nor a widow nor a lunatic, but who would be considered a confounded liar. Mr. Puri himself is at the bar, and if I borrow money and give a note in favour of a Marwari and say : " Mr. Puri, I did not get that money ", would not Mr. Puri advise me and say : " No, my friend, do not say anything of the sort : I am not going to file a written statement that would at once be held to be false ". That is the position I maintain ; and I maintain the dignity of the profession of law, because I believe no respectable lawyer would encourage false pleas being set up in that way, and I should think any Judge.....

Mr. Amar Nath Dutt : Even when the plea is true ?

The Honourable Sir Bepin Behary Ghose : Who would believe that plea as I have said ? Now, the man who advances money to a person who might die the next day—because in the midst of life we are in death—would you believe that he is an honest creditor ? He knows that his security is absolutely uncertain. Those who advance money to Hindu widows without making any inquiry about legal necessity, would they be considered as honest creditors ?

Mr. B. R. Puri : May I understand, Sir, that people in Bengal
5 P.M. advance money only to those people who are not capable of dying ? I would like to know that.

The Honourable Sir Bepin Behary Ghose : My friend, Mr. Puri notwithstanding my great respect for him as a lawyer, is absolutely fallacious, because in ordinary cases, where people die, their heirs are bound by their ancestor's debts. This is a very simple point. I wonder that my friend, Mr. Puri, has put that question to me. Evidently, on account of his recent criminal practice, he has forgotten his civil law. (Laughter.)

Then about the sanctity of decrees : as some Honourable Members pointed out, in insolvency matters decrees are liable to be re-opened. One of my Honourable friends quoted from Halsbury, but he might have quoted without going so far afield insolvency laws passed by the Indian Legislature. Decrees may be re-opened, but an honest decree-holder has no reason to fear, because he will be able to point out and say : " Here, Sir, is my decree, which is an honest decree ". Why so much profuse tears are being shed by my friend, Mr. Puri, with all the eloquence, which a renowned advocate like my friend commands, for a speculating creditor whose object it seems to be to catch an improvident waster in his net and gamble on the continuance of his life, I cannot understand. It is really a matter of wonder to me. Yes, Sir, decrees have their sanctity, but, as I have pointed out, in insolvency matters decrees can be re-opened.....

Mr. B. R. Puri : By whom ?

The Honourable Sir Bepin Behary Ghose : They can be re-opened by the Receiver.

And, in this case, although the decrees may be re-opened, there is an appeal, and a second appeal, and we have given an assurance through my friend, Mr. Glancy, that decrees should be taken as *prima facie* evidence of the correctness of the debt, and that was in accordance with the opinion of several members of the Select Committee, and if I may say so without any disrespect to any person, we had a Select Committee as strong as this House could provide. There were men of all shades of opinion, and all of them discussed the Bill clause by clause and sometimes had great discussions about certain matters connected with the Bill, and after full consideration the Report is an unanimous one. Only an opinion was expressed by some Members, about which I gave them an assurance, that that opinion would be respected. I don't think I need say anything further about the solemnity of the decrees. I am quite sure, my friend, Mr. Puri, has not read the judgments. I do not know whether those were supplied in his brief. In the judgment of Sir George Rankin, which was affirmed by Their Lordships of the Privy Council,—the judgment, being delivered by Lord Macmillan,—it is said that the lien which was declared would *ipso facto* fall to the ground as soon as the Secretary of State takes possession. If I may read one passage from the judgment of Sir George Rankin, who adorns the Calcutta Bench as Chief Justice, this is what he says :

“ As regards the course of extravagance by which a Nawab might cripple himself by anticipating the future income to accrue in his own lifetime, it appears to me that a contingency is one of the things contemplated by the concluding provision, a provision which enables the Secretary of State to step in if by a course of extravagance the Nawab should disable himself from duly maintaining his dignity and the day should disable himself from duly maintaining his dignity and single piece ? say he was — **B. R. Puri :** You cannot go behind the Indenture.

The Honourable Sir Bepin Behary Ghose : These interruptions do no credit to the creditors. I would ask my friend, Mr. Puri, with all the respect that I owe him, to go through these judgments, to go through the laws, and then say that this is not right. Of course, as a radical he is entitled to say : “ Wipe out these ancient families, wipe out the Nawab of Murshidabad ”, but that is another question. So long as there is the policy of the British Government which maintains the Zamindars—I think, as I have said, it is a question of gratitude in the case of the Nawab of Murshidabad, because he gave the British Government the first foothold in India—I should say,—so long as there is this policy of the British Government, we must protect these noblemen. This legislation, I submit, Sir, is necessary, and I have nothing to say further. (Applause.)

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is :

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

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Friday, the 15th September, 1933.