

LEGISLATIVE ASSEMBLY DEBATES

FRIDAY, 26th MARCH, 1943

OFFICIAL REPORT



CONTENTS



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CONTENTS.

VOLUME II—11th March to 2nd April, 1943.

	PAGES.		PAGES.
THURSDAY, 11TH MARCH, 1943—		Election of Members to the Standing Committee for the Civil Defence Department	1330
Members Sworn	969	Election of Members to the Committee appointed to consider the Convention regarding the Railway Finance	1330—34
Starred Questions and Answers	969—71	Demands for Supplementary Grants	1334—59
Statements laid on the Table	971—72	The Indian Tea Control (Amendment) Bill—Motion to consider—adopted	1359—74
Election of Members to the Standing Finance Committee for Railways	972	WEDNESDAY, 24TH MARCH, 1943—	
Election of Members to the Central Advisory Council for Railways	973	Member Sworn	1375
Election of Members to the Standing Committee for Roads	973	Starred Questions and Answers	1375—82
Election of Members to the Standing Committee for the Posts and Air Department	973—74	Unstarred Questions and Answers	1382—85
Election of Members to the Defence Consultative Committee	974—75	Short Notice Questions and Answers	1385—87
The War Injuries (Compensation Insurance) Bill—Introduced	976	Motion for Adjournment re—	
The Indian Finance Bill—Discussion on the motion to consider not concluded	976—1015	Non-consultation of India as regards International Schemes for future management of Exchange and International Currency, etc.—Ruled out of order	1387—89
FRIDAY, 12TH MARCH, 1943—		Throttling the Debate on the Second Reading of the Indian Tea Control (Amendment) Bill—Not Moved	1389
Starred Questions and Answers	1017—21	Election of Members to the Central Advisory Council for Railways	1389
Messages from the Council of State	1021—22	Election of a Member to the Standing Finance Committee	1389—90
Declaration of Exemption under the Registration of Foreigners Act	1022	Election of a Member to the Central Committee of the Tuberculosis Association of India	1390—91
The Indian Finance Bill—Discussion on the motion to consider not concluded	1022—63	Election of Members to the Standing Committee for the Commerce Department	1391
MONDAY, 15TH MARCH, 1943—		The Delhi University (Amendment) Bill—Introduced	1392
Starred Questions and Answers	1065—73	The Indian Tea Control (Amendment) Bill—Passed as amended	1392—1406
Unstarred Questions and Answers	1073—75	The Hindu Code, Part I (Intestate Succession)—Discussion on the motions to refer to Joint Committee and to Circulate—not concluded	1406—26
Amendment to the Ajmer-Merwara Motor Vehicles Rules	1075—76	THURSDAY, 25TH MARCH, 1943—	
The Indian Finance Bill—Discussion on the motion to consider not concluded	1076—1118	Starred Questions and Answers	1427—36
TUESDAY, 16TH MARCH, 1943—		Resolution re—	
Member Sworn	1119	Grievances of Officials and Secretariat Assistants employed in Railways—	
Starred Questions and Answers	1119—25	Negative	1436—66
The Indian Finance Bill—Discussion on the motion to consider not concluded	1126—70	Treatment of Political Prisoners and Detenus—Discussion not concluded	1467—79
WEDNESDAY, 17TH MARCH, 1943—		Statement of Business	1479
Starred Questions and Answers	1171—76	FRIDAY, 26TH MARCH, 1943—	
Unstarred Questions and Answers	1176—79	Starred Question and Answer	1481
Election of Members to the Standing Finance Committee for Railways	1179	Statements laid down on the Table	1481—83
Election of Members to the Standing Committee for Roads	1179	Message from the Council of State	1483
Election of Members to the Standing Committee for the Posts and Air Department	1179—80	The Code of Criminal Procedure (Amendment) Bill (Amendment of sections 269, 272, etc.)—Motion to refer to Select Committee—Negative	1483—91
Election of Members to the Defence Consultative Committee	1180	The Special Marriage (Amendment) Bill—Motion to continue—adopted	1491
The Indian Tea Control (Amendment) Bill—Introduced	1180	The Hindu Married Women's Right to Separate Residence and Maintenance Bill—Motion to continue—adopted	1491
The Indian Finance Bill—Motion to consider—adopted	1180—1220	The Delhi Muslim Wakfs Bill—Amendments made by the Council of State agreed to	1491—92
THURSDAY, 18TH MARCH, 1943—		The Hindu Marriage Disabilities Removal Bill—Motion to refer to Select Committee—withdrawn	1492—96
Members Sworn	1221	The Indian Medical Council (Amendment) Bill—Motion to refer to Select Committee—Negative	1496—1521
Starred Questions and Answers	1221—27	Election of Members to the Standing Committee for the Commerce Department	1521
Unstarred Question and Answer	1227	MONDAY, 29TH MARCH, 1943—	
Motion for Adjournment re Situation created by the Appointment of the Broome Commission in Durban—Disallowed	1227—28	Member Sworn	1523
The Indian Finance Bill—Passed as amended	1228—38	Starred Questions and Answers	1523—37
The Tobacco (Excise Duty) Bill—Discussion on consideration of clauses—not concluded	1238—68	Unstarred Questions and Answers	1537—43
SATURDAY, 20TH MARCH, 1943—		Death of Mr. S. Satyamurti	1543—44
Members Sworn	1269	Resolution re Grievances of Officials and Secretariat Assistants employed in Railways—Ruling re withdrawal of the Resolution as amended	1544—45
Starred Questions and Answers	1269—77	Election of Members to the Standing Committee for the Labour Department	1545
Unstarred Question and Answer	1277	Election of Members to the Standing Committee for the Supply Department	1545
Motion for Adjournment re Sentence of death and confiscation of properties of Pir of Pagaro—Leave refused	1277—78	Election of a Member to the Standing Finance Committee	1545
Election of Members to the Standing Committee for the Labour Department	1278—80	Election of a Member to the Central Committee of the Tuberculosis Association in India	1545
Election of Members to the Standing Committee for the Supply Department	1280—81		
The Trade Marks (Amendment) Bill—Introduced	1281		
The Tobacco (Excise Duty) Bill—Passed as amended	1281—92		
The Vegetable Product (Excise Duty) Bill—Passed as amended	1292—1313		
Demands for Supplementary Grants	1313—24		
TUESDAY, 23RD MARCH, 1943—			
Members Sworn	1325		
Starred Questions and Answers	1325—29		
Unstarred Question and Answer	1329		
Motion for Adjournment re Execution of Pir of Pagaro—Leave refused	1329—30		

	PAGES.		PAGES.
Statement laid on the Table <i>re</i> Net Earnings of recently constructed Railway Lines	1545	The Trade Marks (Amendment) Bill— Passed as amended	1647—49
Message from the Council of State	1546	✓ The War Injuries (Compensation Insurance) Bill—Referred to Select Committee	1649—61
The Hindu Code, Part I (Intestate Succession)—Discussion on the motions to refer to Joint Committee and to Circulate not concluded	1546—79	The Delhi University (Amendment) Bill—Discussion on the motions to refer to Select Committee and to Circulate not concluded	1661—83
TUESDAY, 30TH MARCH, 1943—		Statement <i>re</i> Standing Committee for the Food Department	1683
Starred Questions and Answers	1581—94	THURSDAY, 1ST APRIL, 1943—	1685
Unstarred Questions and Answers	1595—98	Starred Question and Answer	1685—87
Short Notice Question and Answer	1598—99	Short Notice Questions and Answers	1685—87
Election of Members to the Standing Committee for the Commerce Department	1599	✓ The Delhi University (Amendment) Bill—Referred to Select Committee	1687—1724
Election of Members to the Standing Committee for the Civil Defence Department	1599	Report of the Public Accounts Committee	1724—27
✓ The Hindu Code, Part I (Intestate Succession)—Referred to Joint Committee	1599—1631	Message from the Council of State	1727
The Indian Army and Air Force (Military Prisons and Detention Barracks) Bill—Passed	1631—32	FRIDAY, 2ND APRIL, 1943—	
The Trade Marks (Amendment) Bill—Discussion on the motion to consider not concluded	1632—34	Starred Questions and Answers	1729—34
WEDNESDAY, 31ST MARCH, 1943—		Short Notice Questions and Answers	1734—37
Member Sworn	1635	Statements laid on the Table	1737—40
Starred Questions and Answers	1635—46	Motion for Adjournment <i>re</i> Refusal of permission to the Bombay Conference Delegation for interviewing Mahatma Gandhi—Ruled out of order	1741—42
Unstarred Questions and Answers	1646—47	✓ The Hindu Code, Part I (Intestate Succession)—Nomination of Members to the Joint Committee	1742
Election of Members to the Committee appointed to consider the Convention regarding the Railway Finance	1647	Report of the Public Accounts Committee	1742—56
Message from the Council of State	1647	Demands for Excess Grants for 1940-41	1756—60
		The Special Haj Inquiry Report	1760—82

LEGISLATIVE ASSEMBLY

Friday, 26th March, 1943.

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

STARRED QUESTION AND ANSWER.

(a) ORAL ANSWER.

COMPLAINTS OF POLICE EXCESSES ON POLITICAL PRISONERS AT ALLAHABAD.

389. *Qazi Muhammad Ahmad Kazmi: (a) Will the Honourable the Home Member please state if it is or it is not a fact that there are complaints of excesses by the police at Allahabad in respect of political prisoners detained under the Defence of India Rules?

(b) Is it or is it not a fact that Mr. Durlabh Bhai B. Trivedi, a teacher in the Basic Training College at Allahabad, was kept for about 20 days after his arrest in Police Station lock up and was given a beating almost every day before he was sent to jail?

(c) Do Government propose to consider the advisability of persuading the Provincial Government to stop such practices in respect of political prisoners?

The Honourable Sir Reginald Maxwell: (a) and (b). I have no information.

(c) No.

Qazi Muhammad Ahmad Kazmi: In view of the fact that the Honourable Member assured the House that he will be making enquiries in case of excesses, will the Honourable Member please do so now?

The Honourable Sir Reginald Maxwell: I did not assure the House that I would make enquiries into cases of excesses, if the Honourable Member refers to my speech of yesterday.

Qazi Muhammad Ahmad Kazmi: Before that, the Honourable Member said that if he was satisfied that real cases of excesses had been committed, he would make enquiries about them, because so far as the detenus are concerned, some steps from the Central Government may be necessary in this matter at least to advise the Provincial Governments.

The Honourable Sir Reginald Maxwell: I do not understand exactly what the remarks are that I made to which the Honourable Member is referring. But I have often made the position clear to the House as to the attitude which the Central Government must take up towards matters of provincial responsibility.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to a supplementary question put by Mr. Lalchand Navalrai to part (c) of starred question No. 76 asked by Pandit Lakshmi Kanta Maitra on the 23rd September, 1942.

ORGANISATION OF AND ASSISTANCE TO INDUSTRIES FOR MEETING WAR SUPPLY REQUIREMENTS.

The Government of Sind have appointed their Department of Industries as the official agency for executing Government orders. The official agency has taken war orders mainly for textile items as these are the easiest to handle. It has also carried out investigations on various other items from time to time and has helped the Supply Department in finding indigenous sources of manufacture and locating capacity in anticipation of war requirements.

Information promised in reply to starred question No. 6 asked by Mr. Ananga Mohan Dam on the 10th February, 1943.

SUPERVISOR TRAINEES AT ISHAPORE METAL AND STEEL FACTORY.

(a) No. From 39 per cent, to 57 per cent, of the Supervisor Trainees refrained from recording their attendance by the ticket system for seven days.

(b) and (c). Approximately 16 per cent. of the Supervisor Trainees appealed to the Superintendent to restore the card stamping system of recording attendance. Only one asked for permission to resign.

(d) Government have under consideration the question of setting up a net-work of employment exchanges and sub-exchanges throughout the country. Further, as some technical trainees are joining the Armed Services before they complete their training, Government

have decided to continue the technical training scheme for a year and a half after the war to enable such persons to complete their training and so fit themselves for employment in industry.

Information promised in reply to supplementary questions of starred question No. 13 asked by Mr. K. C. Neogy on the 10th February, 1943.

PROTECTION FOR PRODUCER GAS PLANTS INDUSTRY.

1. *Location of test house in Bombay and its functions.*—(a) The testing plant is located in the Victoria Jubilee Technical Institute, Matunga.

(b) *Functions.*—To test the purity of the gas—that is, the efficiency of the filtering equipment of a plant to remove ash and other abrasive matter—given by sample plants submitted for technical approval, and by any plants brought in for subsequent test. The nature of the test is as described in the late Communications Department pamphlet of April, 1942 “Australian Standard Specifications (Emergency Series) for 1. Charcoal Gas Producers for motor vehicles (including test). 2. Wood Charcoal for use in Gas Producers for Vehicles and Tractors (including tests)”.

2. *Is testing compulsory?*—As stated in the reply to the question, the matter is a Provincial subject. The Central Government can and have circulated to Provinces recommended Model Rules and advice: they cannot take direct executive action. The latest edition of the model rules (to be made under the Motor Vehicles Act)—“Additional Rules Regarding Producer Gas Vehicles”—provide that the approving authority may call upon the manufacturer to produce the plant for this test.

3. *Responsibilities attached to licencees obtaining steel for the manufacture of Producer Gas Plants. To what extent are they expected to maintain these plants?*—In the Model Rules referred to, provision is made for approval of a sample plant by an officer of the Provincial Government. The approved manufacturer is bound to make and sell plants in accordance with the specifications of the approved plant. He has to give with each plant a book or card of instructions for operation and to state what parts or materials are not guaranteed for two years. Service after sale is not required by the rules although a number of manufacturers offer this.

4. *Model Rules.*—A set of Model Rules was drawn up and circulated to Provinces at the end of 1941. These and general specifications were later revised in the light of experience, the second edition being issued in December, 1942. A copy of these has now been placed in the Library.

5. *Other Pamphlets.*—The following other pamphlets issued from time to time are now available in the Library:

(1) Government of India, Department of Communications.

“Producer Gas for Motor Vehicles—Supply of Charcoal”, January, 1942.

(2) Government of India, Department of Communications.

“Producer Gas and Charcoal Practice in Australia”, March, 1942.

(3) Government of India, Department of Communications.

“Australian Standard Specifications (Emergency Series), for—

(1) Charcoal Gas Producers for Motor Vehicles (including tests).

(2) Wood Charcoal for use in Gas Producers for Vehicles and Tractors (including tests).”

April, 1942.

(4) Government of India, Department of War Transport.

“Practical Application of Gas Producers to Road Transport including Passenger Service Vehicles” (Reprint from the journal of the Institute of Fuel, London), January, 1943.

(5) Government of India, Department of War Transport.

Memorandum “Producer Gas Plants for Mechanically Propelled Vehicles. Gas Testing and Workshop inspection routine.” January, 1943.

(6) Government of India, Department of Communications or Department of War Transport. Periodical Bulletins:

No. 1, April, 1942. No. 2, June, 1942. No. 3, September, 1942. No. 4, November, 1942. No. 5, January, 1943. No. 6, March, 1943.

Information promised in reply to parts (c), (e) and (f) of starred question No. 81 and parts (e) and (f) of starred question No. 83 asked by Mr. Ananga Mohan Dam on the 15th February, 1943.

GRIEVANCES OF THE AMALGAMATED ASSAM BENGAL RAILWAY STAFF.

No. 81.—(c) The services were considered continuous but no staff have been retained in their original posts with the same responsibility on a reduced pay.

(e) The temporary staff engaged on purely munitions work in the Kanchrapara Workshops are not given passes but are eligible for Privilege Ticket Orders and Week-end Concession Ticket Orders for themselves. There is no information which suggests that the practice in this respect in other Workshops is different. The second part does not arise.

(f) The reply is in the negative.

GRIEVANCES OF THE AMALGAMATED ASSAM BENGAL RAILWAY STAFF.

No. 83.—(e) As regards non-gazetted staff, some representations have been received and every one of them has received careful consideration.

(f) Yes, nine.

Information promised in reply to unstarred question No. 36 asked by Mr. N. M. Joshi on the 23rd February, 1943.

FILLING OF HIGHER VACANCIES IN ACCOUNTS DEPARTMENT OF BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

(a) No.

(b) In the Accounts Department 49 Indians and 15 Anglo-Indians were promoted permanently or provisionally to posts carrying pay of Rs. 160 or over during the last five years. One Anglo-Indian secured promotion by transfer to the General Manager's office.

(c) No.

(d) It is regretted the details cannot be reproduced as they are voluminous.

(e) Changes in the strength of posts take place to meet changing requirements. In grades of Rs. 160 and over three posts have been abolished and three have been held in abeyance while 14 temporary posts have been created.

MESSAGE FROM THE COUNCIL OF STATE.

Secretary of the Assembly: The following message has been received from the Council of State:

"The Council of State at its meeting held on the 24th March, 1943, agreed without any amendment to the Bill to make provisions on a basis of reciprocity in regard to entry into, travel, residence, the acquisition, holding or disposal of property, the enjoyment of educational facilities, the holding of public office, or the carrying on of any occupation, trade business or profession in British India by, and the franchise in British India of, persons domiciled in British possessions, which was passed by the Legislative Assembly at its meeting held on 3rd March, 1943."

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL—contd.

(AMENDMENT OF SECTIONS 269, 272, ETC.)

Mr. President (The Honourable Sir Abdur Rahim): Further consideration of the following motion moved by Qazi Muhammad Ahmad Kazmi on the 3rd March, 1948:

"That the Bill further to amend the Code of Criminal Procedure, 1898, for the abolition of Sessions trials with the aid of assessors, (*Amendment of sections 269, 272, etc.*), be referred to a Select Committee consisting of the Honourable Sir Sultan Ahmed, Sir George Spence, Khan Bahadur Sir Abdul Hamid, Mr. Govind V. Deshmukh, Sir Syed Raza Ali, Sir Muhammad Yamin Khan, Mr. Lalchand Navalrai, Sardar Sant Singh, Mr. P. J. Griffiths, Mr. K. C. Neogy, Raja T. Manavedan, Maulvi Abdur Rasheed Choudhury and the Mover and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. Lalchand Navalrai (Sind: Non-Muhammadian Rural): Sir, we are discussing now in the House the abolition of certain sections in the Code of Criminal Procedure, which refer to trials with the aid of assessors before Sessions Courts. The motion made requires that the Bill be referred to the Select Committee. What the Honourable Member means is that trials in Sessions Courts with the aid of assessors serve no useful purpose nowadays and that the system is such that it need not be continued any more. He wants that assessors should not sit with the Sessions Judges when deciding of cases.

The other day when I was discussing this motion, I was of opinion and I still maintain the same, that the system by itself is not bad, but that the way in which it is practised or followed should be improved. The other day I was trying to show the defects with regard to selection of the assessors. According to section 268 of the Criminal Procedure Code the trials before a Court of Sessions shall be either by jury or with the aid of assessors. In moving his motion, my Honourable friend did not suggest any alternative if the assessor system is done away with. It is plain from this section 268 that I just now quoted that all trials should be either by jury or with the aid of assessors. If then trials with the aid of assessors have been proved to be of no use, as their opinions are not even relied upon or sometimes not even looked at, but thrown away without any consideration or without showing any reasons why they are rejected, in that case we come to the conclusion that the assessor system is no more useful. When that system is of no use, the question is what is the alternative. The alternatives are two, firstly that trials in all Sessions Courts and High Courts should be made with the help of jurors. We do find great difference in the method of selection of jurors and assessors. In that case my Honourable friend should have asked that all trials should be by jury system. The time has

[Mr. Lalchand Navalrai.]

come when this reform should be introduced and the system of trial with the aid of assessors should be done away with. We have only to fall back upon the system of trial by jury. There was a time when the system of trial with the aid of assessors was useful when English education had not made such rapid advance that it has done in recent years. At that time it was difficult to get even literate people, literate in vernacular, what to speak of people with English education. It was only in certain places that English educated people were available and the system of trial by jury was in vogue in those places. Some of the men had good education and were competent and experienced. So the difference was made that at certain places, there should be trial by jury and at certain other places trial with the aid of assessors. We find in several places where trial by jury was prevalent, they had given good satisfaction. The reason was that they had the power to decide cases for themselves without interference by the court except in certain cases. The verdict of the jury is binding on the Judge, unless he finds valid reasons to disagree with the jury. If there is a decision that the jurors will sit and give their verdict on the merits of the case in which a certain person has committed a murder or he has committed a dacoity, they will do it. And then the Judge has no alternative. But if there is any question of law, then the Judge can send their verdict to be corrected by the High Court. Therefore, I say that they have got more powers and I would submit that if there had been more powers with the assessors, at least that class of assessors who are educated and selected people, they would have taken advantage of that and would not have allowed the judge to ignore their opinion. The other day, I read to the House certain opinions in which it was made quite clear that there are even directions given to the courts to ignore the opinions of assessors. Therefore, I am submitting that the one way of improving the present situation is to have jurors. It might be said that in the mufassil where there are courts, people with much education and intellectual powers will not be available. But it is not so. Session Judges work at District Headquarters, and not in mufassil courts. Take, for instance, Hyderabad in my province. There the trials are held with the aid of assessors. Why should that be done. There are educated and intelligent men with wisdom and experience who will do as much justice as any jury. Then why should this present assessor system continue? This is one suggestion: to have all trials by jury. At present, as everybody knows, the proceedings are conducted in English with the help of prosecutors as well as defence pleaders and advocates, and, I dare say, if a serious attempt is made to find out proper persons, there will be no dearth of them.

The other alternative that I will suggest is that if the Government still wants that in certain courts trials should be held with the aid of assessors, then those courts should be specified. The Government should examine which are the courts where jury system cannot be adopted even now. This will necessitate an amendment in the Criminal Procedure Code in respect of assessors. At present the system is that under section 268 the trials are held either by jury or by assessors. Then there is section 269 which gives power to the local Provincial Government. It is laid down:

"The Provincial Government may, by order in the Official Gazette, direct that the trial of all offences or any particular class of offences, before any Court of Sessions, shall be by jury in any district, and may revoke or alter such order."

Therefore in those districts jury system can be introduced. Even the Provincial Governments would do it, if only the Central Government wishes and gives them a lead in the matter.

Section 285 lays down the number of assessors that have to be appointed. It might be noticed with regard to this point that formerly there used to sit only two or three assessors. Subsequently, it was found that people of better intellect could be found and that it was necessary to have more than two or three, because in a jury there are so many persons who sit and decide the case. Therefore the number was raised to four. My point is that progress is being made already, and the time has come now when in many Session Courts—I

would rather say in almost all courts—which are situated in big cities there should be a jury system.

Coming to section 309 where it is laid down that the opinion of assessors is not binding one or, more or less, is not to be relied upon, or the judge may differ without even showing any grounds. Here I do not blame the judges. I have been practising in these Courts and I know that the selection of assessors is an insult to the court; they cannot give any help to the court. I will presently show how it actually works in practice. If the assessors who help the court are selected people of intellect and education, I do not think the Judge would ignore their opinion and take advantage of this provision, but what actually happens is this: I have seen in a court four persons coming and sitting as assessors. Do you know who they were? Cobblers, barbers, hawkers and people like that. They do not even know how to sit in the chair properly. And these are the people who are supposed to help in the administration of justice in the country. When, at the end of the trial, they are asked: "What is your opinion?", they look to each other, one pointing to the other to speak out. One says 'I did not follow that witness', and the other points out to yet another difficulty. In short, their reply is: "Whatever is the view of the Court, we agree". This is how this system is working, and yet we are not condemning this system. What I have been at pains to point out is this: Is there any qualification laid down for assessors in the Criminal Procedure Code? There is none. There is of course a section which says that such and such persons will not sit as assessors, but there is no section suggesting that persons with these academic qualification or experience should be selected to serve as assessors. In this connection, I refer the House to section 319 which says:

"All male persons between the age of 21 and 60 shall, except as hereafter mentioned, be liable to serve as jurors or assessors at a trial."

There is no qualification laid down for such assessors. We find in section 320:

"The following persons are exempt from the liability to serve as jurors or assessors: Legal practitioners, persons officiating as priests," and so on.

I need not read the whole list. Therefore, I say that there is a negative provision, but there is no positive provision as regards the qualifications which these assessors should possess.

We find section 321 which is very important. That shows that the qualification of the persons has also to be found out, or rather judged by the persons who make the list, but in practice I will say that that is also not followed. But what is the qualification is not mentioned. Now I will read the section:

"The Sessions Judge or the Collector of the District, or such other officer as the Provincial Government appoints in this behalf shall prepare and make out in alphabetical order a list of persons liable to serve as jurors or assessors and qualified in the judgment of the Sessions Judge or Collector."

Qualified in the estimation of the Sessions Judge or District Magistrate! But what are those qualifications by which he should go by? There ought to be a section in the Criminal Procedure Code which says that a person with a particular qualification only can sit as an assessor. This is the first preliminary, but I will explain how this is being neglected. From my own experience the Sessions Judge or the District Magistrate never sits to prepare the first list. This is prepared by a Patwari or a tapedar (on our side). They do not do it, because it is laid down also that besides the Sessions Judge or the Collector of the District such other officer as the Provincial Government appoints may do it, and such an officer is the Patwari, who goes round and finds out these people from their shops and prepares a list. I submit that the procedure in my part of the country is like that, and I doubt if it is better elsewhere. Therefore, my submission is about the initial mistake, otherwise my friend, Mr. Kazmi, would not have brought this Bill. The country is suffering on account of these assessors sitting there or for not having assessors of better qualities and talents. Now the Patwari prepares the list. This is where I left off in my speech the other day. Continuing . . .

Mr. President (The Honourable Sir Abdur Rahim): I do not suppose the Honourable Member wishes to discuss the whole matter anew?

Mr. Lalchand Navalrai: I know after this motion for one Bill to be continued only, had to come up. I will give the Honourable Member moving it an opportunity soon to move his motion earlier.

Now, after that list is prepared, there is another section, i.e., section 324. It says:

"The Collector and the Sessions Judge should sit to revise that list."

Now, I have already spoken about the revision and said that it is only nominal. Only those persons come to object who say: 'For God's sake relieve us of this bother of sitting in the Sessions Judge's Court'. The list is as it is. Then there is a third time for revision, but this is hardly done. Therefore, what I am submitting is that the system of these assessors is very bad and it is quite possible that there may be some difficulty in improving the conditions which are prevailing at present, but I would tell the Honourable the Law Member, who is also the Leader of the House, to take courage in his hands and during his time amend this Criminal Procedure Code so that only those persons of qualification sit who do not waste the time of everyone. The present Bill has asked only for a Select Committee. I submit that when the principle of the Bill is accepted that this assessor system is bad, the second stage will be the Select Committee, and I think the House will be with me in saying that a Select Committee is very necessary, and then in that case I will appeal to the Law Member also that this is an important point of justice, as people are being hanged on the opinions of such men supported by the Judge, his Bill must go to the Select Committee and the Honourable Members of the Select Committee may find out an alternative, and that alternative may be suggested, but if the Select Committee think that they cannot effect any change, then I think the Government should bring up their own Bill and Government must give relief so far as this nuisance of these assessors is concerned. I am submitting that there should be an improvement, which can be effected in two ways. Have a jury system. That can easily be done. Let the Home Member and the Law Member write to the Provincial Governments to find out in which districts the jury system can be employed. The second is that the Criminal Procedure Code should be amended so as to provide qualifications for assessors, if the assessor system is allowed to continue, but I want they should do it as early as possible.

Sardar Sant Singh (West Punjab: Sikh): I am afraid I do not agree with the previous speaker's views. Nor do I agree with the objects of this Bill. I can assure my friend, the Mover of this Bill that I have had a very extensive practice in murder trials and I have to deal with assessors almost every day, when practising at Lyallpur. There may have been some defects in the earlier days in the intelligence of the assessors in following the proceedings in the Sessions trial.

Mr. Lalchand Navalrai: Has intelligence increased in Lyallpur?

Sardar Sant Singh: I can assure him that it is much more than the experience of the previous speaker suggests.

Mr. Lalchand Navalrai: Question.

Sardar Sant Singh: Probably my friend will find himself in a quandary if he comes and conducts a case at Lyallpur. My experience has been that the assessors do try to follow the proceedings intelligently and I have occasionally seen some assessors coming up in courts and taking notes of each witness's evidence and then putting certain questions in cross-examination which exhibit their intelligence.

Mr. Lalchand Navalrai: That is not true in Sind.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member ought to be in his seat if he wants to intervene?

Sardar Sant Singh: Sir, I am submitting that the assessors that come to-day to help the Sessions trial do take an intelligent interest in the proceedings. I have often seen, Sir, the verdict of the assessors deciding the fate of the case, particularly when the assessors are unanimous or in a majority in their view.

In cases which are on the margin, where the Sessions Judge finds himself in difficulty in coming to a conclusion on a question of fact, the verdict of the assessor makes him go the same way as the assessor, particularly on questions of fact. I do not say there is no room for improvement. If I am asked to suggest an improvement in the Criminal Procedure Code, I would suggest an improvement in the other direction—I would say that when the assessors are unanimous, ordinarily the judge should agree with their verdict; and it should be made incumbent on the trying judge to give sound reasons if he differs from them, on questions of fact

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): That means that practically you want to make some amendments.

Sardar Sant Singh: If I am given the choice, I would go just the other way to what the Bill goes. At the same time, I may express my view that there is room for improvement in the method of appointment of assessors. I know that assessors are appointed in a joint meeting between the Sessions Judge and the District Magistrate and both make the list for a year. But unfortunately the office of assessor has come to assume something of a qualification. My Honourable friend the Law Member will be aware, if I remind him, that in the case of *Sankaran Nair v. O'Dwyer*, one of the witnesses who was examined here was an assessor; and in order to increase his status as a witness, amongst other qualifications he stated that he was an assessor. When the papers went to England, the judges trying that case asked what an assessor was; and they were told that it was the same thing as a jurymen. The Judge said "I thought it was more of a liability than a qualification". But here in India to be an assessor is regarded as a qualification in the eyes of the bureaucracy, with the result that there is an attempt to get oneself elected an assessor; with this result that those who are of independent views are not very great favourites with the district magistrate and they are never nominated as assessors. They are right because they consider the assessorship to be a duty rather than an asset and therefore there is no trouble over it; but if the scope of the work of an assessor is enlarged and really intelligent and independent men are appointed as assessors, I think that a trial by assessors will be only a bit less useful than trial by jury. Trial by jury would be much better; and therefore this system as it has developed requires to be improved rather than to be scrapped: it should be replaced by a jury trial and not by the Sessions Judge sitting alone. I have seen cases where the public prosecutor has asked the committing magistrate to reduce the gravity of the offence from 300 to 304, and punish the offender there, believing that in the sessions case with the aid of assessors the accused had a chance of being completely acquitted, and let off. That has been my experience. I have myself insisted in certain cases that the case should be committed to the sessions, because the trial there is a healthier and more calm atmosphere, with greater consideration than is possible in the trying magistrate's court. Therefore, I regret that I have to put a cold douche on the enthusiasm of my friend, Mr. Kazmi, in bringing about an improvement of the Criminal Procedure Code. I want to assure him that it is not an improvement—it is just the other way.

Mr. Muhammad Azhar Ali: Sir, my friend, Sardar Sant Singh, who has just spoken, forgot that the Bill has to go to Select Committee. The Select Committee has got full power to deal with this Bill. If it decides that there should be an amendment it can do it; if it decides otherwise, then it is a different matter. My own experience as a lawyer has been that so indiscriminate is the selection of the assessors that it is very desirable that some amendment should be effected. Although I have worked in the High Court and although I am a Member of the Legislative Assembly, under the statute I am disqualified to sit as an assessor in court; but still I may inform the House that I have had to suffer in many cases. I was selected twice or thrice as an assessor; I objected to it and I went to the District Judge and spoke to him personally, I went to the Deputy Commissioner and spoke to him personally and he said "Will you send a letter? I will reconsider it." But the machinery is such that one cannot escape. Any zamindar in the district is being selected

[Mr. Muhammad Azhar Ali.]

by the tahsildar through the patwari; the patwari simply gives the name of the zamindar and the list goes to the tahsildar who sends it to the Collector of the district; and the collector sits with the District Judge to settle and decide who should be the assessors. Without care or consideration, they simply put in the names of those who are recommended by the tahsildars. I have myself been a sufferer in one case when I was called once; the penalty if one does not attend is Rs. 50 or something like that. Perhaps as my friend Sardar Sant Singh says, it might be considered to be an honour to be an assessor in some places; but when the penalty falls the man suffers like anything. Why should one suffer penalty if one cannot go there to sit as an assessor? Sometimes one has got to get a certificate from the civil surgeon—not the ordinary dispensary doctor. How difficult it is to get a certificate from the civil surgeon everybody knows? But it has to be done to get relieved of this assessorship. As I said, it is not only the tahsildar who is not very careful about this selection; it is the munsarim of the court who makes egregious mistakes. In many cases when I informed the district judge, he said "You had better write a letter"; but my letter was sent away to the munsarim and the result was that my letter was not noticed and I had to suffer on this account. I think therefore if this is placed before the Select Committee, the committee will consider the opinions which have been got by the Government and also the opinions expressed in this House about the personal experience of the Members of the House over this matter. If the assessors are all intelligent people, it is quite all right; but if they are not intelligent or if their opinion is absolutely neglected or thrown away by the District Judge, which does occur sometimes, then there is great and grave injustice in such cases.

To compare assessors with jurors is the greatest mistake that one can make on the floor of this House. Assessors are not such as can be claimed to be very intelligent people. Any man who pays a certain amount of revenue is selected as an assessor; even the mahajans and banias are selected as assessors. Sardar Sant Singh's experience may be very great, but there is our experience that not very intelligent people are generally selected as assessors. The juror case is rather different. There are some rules framed, there is some discretionary power given to select jurors. But generally it is the case that assessors are not very literate people. When there is so much illiteracy in this country, what can you expect of the assessors? With these remarks I support the Select Committee motion.

The Honourable Sir Sultan Ahmed (Law Member): Sir, I oppose the motion. In order to appreciate the position, it is perhaps necessary for me to give a very short history of trial of serious offences from the time of the East India Company up to 1861, then from 1861 to 1923 and then from 1923 onwards.

The House will appreciate that the position after 1790 till 1861 was this, that all the Nizamat Courts or Sessions Courts were presided over by a Judge who was always helped in all serious cases by either a mufti or a kazi. He never sat alone to decide serious cases. In civil cases the position was also the same; pandits and muftis were called to give advice. But in serious criminal cases, like murder or cases of that kind, no Judge ever took the responsibility of deciding a single case without the aid of the two other persons. This continued until 1861, when by the Act of 1861 the assessor system was introduced. This was about 80 years ago. How it worked will be apparent from the next stage, the Act of 1923. It worked most satisfactorily so much so that in 1923 this Legislature decided not only to continue the assessor system but to increase the number of assessors to four. If the Legislature had come to the conclusion that the assessors were an absolutely useless body, as has been suggested by my Honourable friend, Mr. Kazmi, I am sure the Legislature could not have taken the course that it adopted. Therefore, it is obvious that a system which had been there for over 100 years could not be lightly dealt with by simply bringing in a Bill like this saying that the system must be changed. I think my Honourable friend, Mr. Lalchand Navalrai, struck the right nail on the head when he said,

"what is the good of simply saying that the assessors should go when there is no alternative suggested?" Are you going to have trial of serious offences by the Judge alone? The whole country will be against you. There is no justification for such a procedure. If the assessors need certain improvement, that is a matter for rules to be framed by Provincial Governments, but that is an entirely different matter. But to give full liberty to the Sessions Judge to try these offences alone would, I submit, be a most reactionary and retrograde step. History is against it, experience is against it. My Honourable friend read out a few passages from the opinions received from the different provinces and from different Judges. I could read exactly the opposite where the experience of other Judges is wholly different. For instance, my Honourable friend read the opinion of two Judges of the Sind Court, but did not read the opinion of the other two. To begin with, he need not have gone so far to find support; but when the Court consists of four Judges, how does it help him if two Judges supported his view, while two other Judges of the same Court found the assessors to be exceedingly useful. I therefore submit that a measure like this should not be brought in war time in order to change a system which has been there for the last 150 years,—in the form of assessors for at least 80 years. There must be stronger grounds why the system should not continue before this House can be called upon to accept such a view. Here in this very House you have got three lawyers,—one of them, Sardar Sant Singh, who has got very great experience of sessions cases. He says when he is not here he is only making money before the Sessions Court! His experience is exactly different from that of my Honourable friend, Mr. Kazmi. Mr. Kazmi's experience seems to be very unfortunate, I do sympathise with him, but the experience of others also counts. I therefore submit that there is no justification for this change.

In 1923 the whole matter was again discussed threadbare, and far from supporting the view that has been taken against assessors by my Honourable friend, Mr. Kazmi, the Legislature decided that the system should not only be continued, but that there should be a larger number of assessors.

I should like not to emulate my Honourable friend when he read a number of remarks by different Judges, but I should like to read only two, one from the Patna Court and the other from the Allahabad Court. Mr. Justice Dhavle of the Patna High Court was a highly experienced Sessions Judge for a long time and then he presided over the Criminal Bench of the High Court. He said:

"Assessors are generally drawn from the same class of men as common jurors. Their abolition will leave us sessions trials by jury alone, and it is difficult to see the logic of abolishing assessors as quite useless while leaving the issue of sessions trials in the hands of the same class of men functioning as jurors, for I am not aware that the greater authority entrusted to jurors really gives them a greater sense of responsibility than is the case with our assessors. Jury trials have not been a very great success in this Province, and as the proposed amendment will leave us no other mode of trial for sessions cases, I am opposed to it quite irrespective of the fact that I have on occasion received valuable assistance from assessors' opinions."

Two Judges agreed with this. Mr. Justice Rowland said:

"I notice that the Honourable Law Member said in the debate: 'I should have thought that these were not the days when a system which had been in existence for more than 80 years should have been brought before the House for modification'."

I should have said 150 years instead of 80. Chief Justice Harries said:

"I am opposed to the abolition of trial by Judge and assessors for the reasons given. . . . At present a trial by Judge and assessors is preferable to a trial by Judge and Jury."

Coming to the Allahabad High Court, Mr. Justice Plowden, who had very great experience as Sessions Judge, said:

"I have already expressed my opinion as District Judge of Jhansi in 1938, or 1939, and as District Judge of Meerut a few days ago that I am totally opposed to the abolition of the assessor system."

I have found that assessors take an intelligent and impartial interest in cases.

If you go to the opinions of different Governments you will find the same difference of opinion, opinion sharply divided. That being the state of affairs, I submit no case has been made out why a system which has been in existence for such a long period should be abolished straightaway without any alternative being proposed in the Bill. The Bill is simply for the abolition of assessors,

[Sir Sultan Ahmed.]

and I submit that it would be a reactionary measure if we allowed the Sessions' Judge alone to decide heinous cases.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): I first want to congratulate my Honourable friend from Lyallpur, Sardar Sant Singh on the increase in the intelligence of the people of Lyallpur, so much so that they have started taking a liability to be an asset. If that is the intelligence of the assessors of Lyallpur, then I plead that such assessors should be abolished.

I am also pleased to hear the Honourable the Law Member who for the first time in his life had a good word to say for the assessors. So far as I understand, he is not even satisfied with the jury system but for opposing me he has come forward to praise the system of assessors and has said very good words about them. They will be on record and the valuable words of the Law Member will be quoted in favour of the high status enjoyed on account of their being assessors.

My Honourable friend, Mr. Azhar Ali, has also narrated his own experience of being nominated an assessor. I would only ask this Honourable House to analyse the feelings of the Members. (*An Honourable Member*: "Dr. Sir Zia Uddin is also nominated.") When Mr. Azhar Ali, an advocate of the High Court and a Member of this Assembly resents being nominated an assessor, we can very well understand what intelligent people are going to occupy that position. If persons with sense, with understanding, hate the idea of being nominated assessors, do you ever think that you are going to get a class of persons who would be intelligent and could understand the procedure before the Sessions Court and be of some use in arriving at a right decision. Just the contrary. People would not like to be assessors, because their opinion has got no value. I do not dispute that there may be one or two persons who may have got good experience of this institution but let us look to the bulk of the opinion that has been obtained. I do not want at this stage to read the opinions of those experienced in the administration of justice but you will find that 99 per cent. of those who have had experience of this system are against it. They say it is a complete farce. What is the use of retaining it? I agree with Mr. Lalchand Navalrai and the Law Member that the judge must be associated with some persons. That will be a better system but are the Government prepared for that. This is the reason why several Governments have opposed this. They say that once this farce is taken away, the people of India will demand trial by jury. The Honourable the Law Member has suggested that some remedy ought to have been suggested. I am prepared to suggest an alternative. Will the Government accept it? The naked truth is apparent to everybody. The Bombay Government and the Bengal Government have opposed this Bill and they say that they want to retain the present system because they think that once it is removed people will want the jury system to be adopted. If the Government are really earnest, they may bring forward a Bill saying that every trial before a court of Session will be by jury. I have no hesitation in accepting it. Are this Government and the Provincial Governments prepared to bring in a Bill of this kind? I can very well see the reason why the Central Government and the Provincial Governments are opposing my Bill. May I ask the Honourable the Law Member whether he is prepared to attach more value to the opinion of the assessors? If so, I would readily withdraw this Bill. If I get an assurance from the Government that they intend to bring forward a measure by which they will attach greater value to the opinion of the assessors and that they will improve their position and status, then I am prepared to withdraw my Bill. What I say is either improve their status and position or do away with them. Do not continue this present farce. I think Government should bring forward some measure which will introduce the jury system throughout this country or they must bring in some amendment by which greater weight would be

attached to the opinion of assessors and which would improve the quality of the people nominated for that purpose.

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

"That the Bill further to amend the Code of Criminal Procedure, 1898, for the abolition of Sessions trials with the aid of assessors (*Amendment of sections 269, 272, etc.*), be referred to a Select Committee consisting of the Honourable Sir Sultan Ahmed, Sir George Spence, Khaw Bahadur Sir Abdul Hamid, Mr. Govind V. Deshmukh, Sir Syed Raza Ali, Sir Muhammad Yamin Khan, Mr. Lalchand Navalrai, Sardar Sant Singh, Mr. P. J. Griffiths, Mr. K. C. Neogy, Raja T. Manavedan, Maulvi Abdur Rasheed Choudhury and the Mover and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was negatived.

THE SPECIAL MARRIAGE (AMENDMENT) BILL.

Dr. G. V. Deshmukh (Bombay City: Non-Muhammadan Urban): Sir, I move:

"That the Bill further to amend the Special Marriage Act, 1872, for certain purposes be continued."

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

"That the Bill further to amend the Special Marriage Act, 1872, for certain purposes be continued."

The motion was adopted.

THE HINDU MARRIED WOMEN'S RIGHT TO SEPARATE RESIDENCE AND MAINTENANCE BILL

Dr. G. V. Deshmukh (Bombay City: Non-Muhammadan Urban): Sir, I move:

"That the Bill to give Hindu married women a right to separate residence and maintenance under certain circumstances be continued."

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

"That the Bill to give Hindu married women a right to separate residence and maintenance under certain circumstances be continued."

The motion was adopted.

THE DELHI MUSLIM WAKFS BILL.

Maulvi Muhammad Abdul Ghani (Tirhut Division: Muhammadan): Sir, I beg to move:

"That the amendments made by the Council of State in the Bill to provide for the better administration of Muslim Wakfs in the Province of Delhi be taken into consideration."

Sir, I find that the Council of State have added what was mostly needed and the amendments which they have made are very essential so far as the Wakf interests are concerned. A copy of these amendments is already on the table of the House and is before every Honourable Member. In clause 39 they have made certain amendments, sub-clause (1) of which runs as follows:

"Before any wakf property is notified for sale in execution of a decree, or for the recovery of any revenue, cess, rate or tax due to the Crown or to a local authority, notice shall be given to the Majlis by the Court or Collector or other person under whose order the sale is notified."

Sub-clause (2) says:

"If the notice required by sub-section (1) to be issued to the Majlis in respect of any sale, is not issued the sale shall be voidable at the option of the Majlis."

The other amendment made by the Council of State is that from clause 41 they have omitted the words 'or under the Land Acquisition Act, 1894'. Those words were not desirable and they have simply been omitted. I hope the House will agree to the amendments passed by the Council of State.

In this connection, Sir, I would like to express my thanks to the Honourable the Secretary of the Home Department who took great pains in getting these amendments passed and also to the Honourable Mr. Hossain Imam, who gave notice of these necessary amendments in the Upper House. I shall be failing in my duty if I do not thank my Honourable friend, Sir George Spence, who took great pains in the early stages of the Bill in getting the Joint Select Committee formed and in anticipation of the fact that he will be able to get soon the assent of His Excellency the Governor General. I want to thank him for all that he has done for this Bill.

[Maulvi Muhammad Abdul Ghani.]

Sir, the Bill is now going to be an Act. It will remove all the grievances of the public which have hitherto been in existence under clause 9, of the Bill no person is eligible for appointment, co-option or election as the case may be, if he has been removed from office of membership under any provision of this Act, or by order of Court for mismanagement or corruption of trust property. This is a very wholesome provision and I hope that the mischief which have already been done will not recur. There are three bodies which has been superseded under sub-clause (2) of clause 25 of the Bill owing to mismanagement and corruption of trust properties by their members. They are Fatehpuri Masjid Committee, Juma Masjid Committee and Anjuman Moyid-ul-Islam. I hope the authorities may not commit mistake in thinking that the members of these superseded bodies are eligible for appointment as members of the Majlis-e-Awakaf, Delhi. They have been superseded on account of mismanagement of trust properties by their members and such members should not be taken in as members of the Majlis.

I wish to thank once more this Honourable House for giving its sanction to this Bill and I hope the Department of Government concerned will see that it is enforced soon.

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

"That the amendments made by the Council of State in the Bill to provide for the better administration of Muslim Wakfs in the Province of Delhi, be taken into consideration."

The Honourable Sir Sultan Ahmed (Law Member): Sir, I accept the amendments which have been made. They were made at our instance in the Council of State and they were considered vital by this House and I do not think there can be any objection to them.

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

"That the amendments made by the Council of State in the Bill to provide for the better administration of Muslim Wakfs in the Province of Delhi, be taken into consideration."

The motion was adopted.

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

"That the re-numbering and re-lettering of the clauses of the Bill as necessitated by the amendments made in the Bill during its passage by the Legislative Assembly and the Council of State and the changes made consequential thereon in all references throughout the Bill be agreed to."

The motion was adopted.

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

"That the following amendment made by the Council of State in clause 38 of the Bill as so re-numbered and re-lettered and consequentially changed be agreed to:

"In sub-clause (4) of clause 38 for the words 'The order' the words 'Any order' were substituted."

The motion was adopted.

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

"That the following new clause 39 as inserted by the Council of State after clause 32 in the Bill as so re-numbered and re-lettered and consequentially changed be agreed to:

"39. (1) Before any wakf property is notified for sale in execution of a decree, or for the recovery of any revenue, cess, rate or tax due to the Crown or to a local authority, notice shall be given to the Majlis by the Court or Collector or other person under whose order the sale is notified.

(2) If the notice required by sub-section (1) to be issued to the Majlis in respect of any sale is not issued the sale shall be voidable at the option of the Majlis."

The motion was adopted.

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

"That the following amendment made by the Council of State in clause 41 of the Bill as so re-numbered and re-lettered and consequentially changed be agreed to:

"In clause 41 of the words 'or under the Land Acquisition Act, 1894', were omitted."

The motion was adopted.

THE HINDU MARRIAGE DISABILITIES REMOVAL BILL.

Mr. Govind V. Deshmukh (Nagpur Division: Non-Muhammadan): Sir, I move:

"That the Bill to remove legal disabilities under Hindu Law in respect of marriage between Hindus be referred to a Select Committee consisting of the Honourable Sir Sultan

Ahmed, Mr. T. T. Krishnamachari, Raja T. Manavedan, Mr. Lalchand Navalrai, Mr. Jamnadas M. Mehta, Dr. P. N. Banerjee, Mr. Amarendra Nath Chattopadhyaya, Pandit Lakshmi Kanta Maitra, Mr. Akhil Chandra Datta, Mr. Ananga Mohan Dam, Bhai Parma Nand, Sardar Sant Singh, Syed Ghulam Bhik Nairang and the Mover and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, I move this Bill with one eye on the Bill itself and the other on the Honourable the Law Member. This Bill is a very simple Bill. Under the Hindu Law marriages are prohibited if the persons are *sapindas* which means related by blood or belong to the same *gotra* which means that they are disciples of the same *Rishi*.

An Honourable Member: Where did you get this definition of the *gotra*?

Mr. Govind V. Deshmukh: You will find it in the books to which I referred in the course of my speech on the motion for the circulation of this Bill for public opinion. You consult those books and use your very exhaustive interpretation of what *gotra* is. The marriage between Hindus is prohibited if the persons belong to the same *sapinda* that is related by blood or belong to the same *gotra*. All that the Bill by clause 2 proposes is: notwithstanding any custom, rule or interpretation of the Hindu law, a marriage, which is otherwise valid shall not be invalid because it is between Hindus belonging to the same *gotra*; or it is between Hindus belonging to the different sub-divisions of the same caste. That is the operative clause. So it does not validate marriages between persons who are *sapindas*, that is, who are related to each other even to the extent of seven degrees on the father's side and five degrees on the mother's side. A *Sapinda* restriction or prohibition is not done away with by this section. This Bill is only a permissive Bill and it does not compel persons who are Hindus to contract marriage if they are members of the same *gotra* if they do not so wish. It merely says if persons who belong to the same *gotra* are desirous of contracting marriage then such a marriage shall be a valid one. More than that it does not intend to do. Then section 2(b) is also permissive and if there are marriages between persons belonging to different sub-castes of the same caste then such marriages shall be held valid. To a Bill like this for which there is voluminous opinion that this Bill should be enacted, I think, there should be no opposition. After my Bill was circulated for public opinion the Rau Committee was set up and it also issued a Communique. Sir, to the question which I put on the 28th October, 1942, the Honourable the Law Member replied as follows:

"Of the replies received to the relevant questions 58 per cent. were in favour of validating all inter-caste marriages, 70 per cent. were in favour of validating all *anatomia* marriages and 81 per cent. in favour of validating *sagotra* marriages."

That was the response so far as the public were concerned for validating *sagotra* marriages. And the replies to the questionnaire went further, they say that even so far as intercaste marriages are concerned they were prepared to legalise those marriages. From the public opinions that were received by us when the Bill went for circulation I find as many as 110 opinions are strongly in favour of the whole Bill and 54 are against. Out of those 54, 26 are of branches of the same body, the Varnashrama Swarajsangh, which should therefore be considered as one vote. I do not wish to refer to all the public opinions which are either in favour of the Bill or against it except one or two as samples to prove that though the general opinion is that the marriages between persons belonging to different sub-castes of a caste are not illegal, the conservative opinion which certainly is prevalent among the illiterate persons is against such marriages. There is first of all the opinion of one Shankaracharia of the Shri Bharat Dharma Mahamandal. He says that the marriage between persons of different sub-castes of the same caste is not so highly objectionable as that between persons of same *gotra*. But at present, the purity of *Raja* and *Virya* i.e., the Blood, and Seed is not observed strictly in all the sub-castes and many new sub-castes have sprung up, the people calling themselves to belong to them without their really being so. Hence marriage between persons of different sub-castes too cannot be encouraged freely. In other words many persons seem

[Mr. Govind V. Deshmukh.]

to think that there would be no objection to such marriages which legally are valid, but I have cited one opinion out of a few which belongs to the Sanatanist Body and which shows that they are not prepared to hold such marriages as valid marriages. Then there is the opinion of an orthodox body also which is against the sub-caste marriages. Now, when one wishes to introduce a Bill of this nature, he is told that those who do not wish to contract marriages strictly according to the Hindu Law why should they not go and marry under the Civil Marriage Act. Some persons do not like to do so. Apart from sentiments, there are certain legal disabilities imposed on him, under the Civil Marriages Act a person who marries according to its provision is instantaneously separated from his joint family. In other words, the moment a person marries under the Civil Marriage Act marriage means for him civil death, the joint family and its incidents end and his father is free to adopt a son. Under the 'Caste Disabilities' Removal Act also, there are certain disabilities. There are certain individuals who, instead of getting married under the Civil Marriages Act, from sentimental point of view as well as to avoid the legal disabilities which attend the Civil Marriage Act, would like to marry according to the Hindu Law. As I said before this Bill is not a compulsory Bill, it is only a permissive Bill. It does not compel anybody to contract marriage in utter disregard of the present provision of the Hindu Law; provisions in this Bill allow persons to marry according to the injunction of the Hindu Law. All that the present Bill does is that it gives choice to those who wish to marry according to their inclination. Sir, this reform is long over due as will be seen from the voluminous opinions that we have received. Therefore, I commend this motion for the acceptance of the House, in view of the public opinion that we have got in favour of this Bill. I would only say one word more and that is, if the Marriage Bill that has been drafted by the Rau Committee could have been introduced in this Session, I would not have made this motion. As a matter of fact, I allowed my Bill to lapse, more than a year ago when I was given to understand that that draft Bill is to be introduced shortly. Having waited for a long time and found that there was no move on the part of the Government that the particular Bill which was recommended by the Rau Committee would be introduced, I revived my Bill and I am making this motion. If there is the slightest indication that the other Bill, will be brought forward, at the next Session, I would see my way to withdraw this motion. Let me remind the Honourable the Law Member that I am receiving letters that the Marriage Bill also should be proceeded with immediately. As a matter of fact I have received ten or twelve letters from Women's Associations. One, I received yesterday from my own province, from the Women's Conference, South Central Provinces. There again they urge that the Bill should be introduced as early as possible.

The Honourable Sir Sultan Ahmed: It has already been introduced.

Mr. Govind V. Deshmukh: If I am given some indication that at the next Session the other Bill would be considered in view of the large volume of opinion in its favour as well as of the urgency which women wish to impress upon, as well as of all shades of public opinion, both males and females, if the Honourable the Law Member would give me some indication or a promise that in the next Session it will be referred to a Select Committee, I would now withdraw this motion.

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

"That the Bill to remove legal disabilities under Hindu Law in respect of marriage between Hindus be referred to a Select Committee consisting of the Honourable Sir Sultan Ahmed, Mr. T. T. Krishnamachari, Raja T. Manavedan, Mr. Lalchand Navarai, Mr. Jamnadas M. Mehta, Dr. P. N. Banerjee, Mr. Amarendra Nath Chattopadhyaya, Pandit Lakshmi Kanta Maitra, Mr. Akhil Chandra Datta, Mr. Ananga Mohan Dam, Bhai Parma Nand, Sardar Sant Singh, Syed Ghulam Bhik Nairang and the Mover and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mrs. Renuka Ray (Nominated Non-Official): Sir, I am glad to hear Mr. Govind V. Deshmukh say that he wants to get an assurance from the Honourable the Law Member and that then he would be willing to withdraw his motion.

As I have already said before, the women in India do not favour laws which are amended by piecemeal methods. This patchwork system leads to further anomalies in law as we have seen even in the case of the Acts of 1937 and 1938, Dr. Deshmukh's Property Act. But as the Honourable the Law Member has already introduced the Marriage Bill, if it is not taken up in this Session, I hope at least that Honourable Members of this Legislature will give the Honourable the Law Member the assurance that the Bill will receive the support of this House, if it is introduced in the next Session. It is only the first chapter of a comprehensive revision of the marriage code as the framers of the Marriage Bill have pointed out. This is not the time for me to go into any details of the Rau Committee Marriage Bill, but I should like to point out that there is only one reform of any significance, and that is the abolition of polygamy and the insistence on monogamy, and I do hope that there is no Honourable Member of this House, who even in these days, approves of polygamy. I do not think the Honourable the Law Member should find it very difficult to bring in a Bill next Session and carry it through even without referring to the Select Committee.

Sir, with these words, I should like to support Mr. Deshmukh in the latter part of his arguments that if the Bill is brought up next Session, then he will withdraw this present Bill.

The Honourable Sir Sultan Ahmed (Law Member): Sir, I have listened with great interest to the speech delivered by my Honourable friend Mr. Govind V. Deshmukh and also to the charming appeal made by my Honourable colleague Mrs. Renuka Ray. Sir, there was a motion here tabled that people above sixty should not be Members of the Legislature? I realise that the amendment which was moved by my Honourable friend Mr. Amarendra Nath Chattopadhyaya that nobody who is below sixty should be a Member of the Legislature, that was the correct one! My hairs have turned grey in public life and if I have learnt anything it is this, that discretion is the better part of valour. I have every sympathy with the object which both Mr. Govind V. Deshmukh and Mrs. Renuka Ray have, but in comes my Honourable friend Babu Baijnath Bajoria. If they can square him up, I am prepared to proceed with the Marriage Bill today. I can give no assurance. All that I can say is this, that they have my fullest sympathy. But when that Bill should be proceeded with will depend entirely, as I have said in my speech on the last occasion, on a propitious time. If the time comes, you will not find me wanting in bringing it up and pursuing it with the same courage which I hope I have shown in the progress of the Succession Bill. But as matters stand at present, I am bound to oppose this Bill.

Mr. Govind V. Deshmukh: Sir, we are threatened not only by my Honourable friend Babu Baijnath Bajoria by his presence, but the Honourable the Law Member also threatens us. . . .

Babu Baijnath Bajoria (Marwari Association: Indian Commerce): You should have given me an opportunity to speak on your Bill. You should not have been in such a hurry to wind up the debate by replying.

Mr. Govind V. Deshmukh: I saw nobody got up and so I wanted to reply to the debate.

Sir, I have been threatened by the Honourable the Law Member and he wants to seek the help of Babu Baijnath Bajoria. Well, in view of the support which I mentioned in the beginning of my speech, I am really not afraid of my Honourable friend Babu Baijnath Bajoria. Sir, no one can hope for any social reform if one wants to get unanimous support from the public. If one were to hold up social reform or any other reform because unanimous support is not forthcoming from the public, then one will have to wait indefinitely. If you wish to introduce even labour reform, there are the capitalists who will hold up that legislation. If therefore any reform is to be carried out, one has to judge it on its own merits, whether that reform is likely to benefit society as a whole for whose benefit it is meant. If in the light of that test, it is found that the particular reform is certainly such as to be justified, then I submit whether there is objection or obstruction from any individual or from any corporate

[Mr. Govind V. Deshmukh.]

body whose principal representative is Babu Baijnath Bajoria, the Honourable the Law Member should not be afraid of. When I made the speech in this House while referring the Bill for public opinion, I was not aware of another disability which existed in Bengal. I received a number of letters in which it was pointed out that people in South Bengal could not marry people in north Bengal. That was another disability, another disqualification which was pointed out to me. Now, Sir, if there are restrictions like these, how can Hindu society be expected to achieve any solidarity or make any progress. The main idea of this Bill is to consolidate Hindu society and make it strong. There may be men like my Honourable friend Babu Baijnath Bajoria who will say, never mind if the society perishes.

Babu Baijnath Bajoria: You want it to perish, not I.

Mr. Govind V. Deshmukh: If the present injunction is there, well the book containing that injunction might well lie in the library or the book may be kept in a museum. So long as it is embodied in a book, it does not matter. But the question is whether society progresses or not. We are concerned more with the progress of the society. Mr. Bajoria and men of his type—when I say Mr. Bajoria, I do not mean anything personal. . . .

Babu Baijnath Bajoria: But you have not heard me.

Mr. Govind V. Deshmukh: I can gather your views. He is a symbol of very very orthodox views. Some orthodox people are now coming round to the views which I am submitting before this House, but this orthodox section represented by Mr. Bajoria sticks to old rules and conventions; they do not want any change, whether it is beneficial, or not; they do not want the rules which were made and practised two thousand years ago to be changed today when the whole world is progressing, when the distances have been narrowed, when members of a family are scattered all over the country in search of their livelihood whereas in old days they used to live together. Rules which were made to suit old pastoral conditions, I submit, cannot hold good today, and, therefore, the law needs a change. However, as the Honourable the Law Member has said that when the time is propitious he will sponsor the Bill, I hope that the propitious time will come soon. If there is anything which I can do by way of observing some ritual. . .

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Observe fast

Mr. Govind V. Deshmukh: . . . or engage Brahmins to do it, I am prepared to do it so that the propitious time may come soon.

Babu Baijnath Bajoria: But it will be too late.

Mr. Govind V. Deshmukh: I want that the Marriage Bill should come before the House in the form of a motion for referring to a Select Committee. We have had too much of public opinion on this Bill and on the questionnaire of the Rau Committee.

Sir, I beg leave to withdraw this motion.

The motion was, by leave of the Assembly withdrawn.

THE INDIAN MEDICAL COUNCIL (AMENDMENT) BILL.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural):

Sir, I am not moving No. 8, but I shall move No. 9 on the List of Business.

Sir I move:

"That the Bill further to amend the Indian Medical Council Act, 1933, be referred to a Select Committee consisting of the Honourable Sir Sultan Ahmed, Mr. J. D. Tyson, Dr. T. G. Spear, Dr. Sir Ratanji Dinshaw Dalal, Mr. Govind V. Deshmukh, Sir Syed Raza Ali, Sir Muhammad Yamin Khan, Mr. Lalchand Navalrai, Sardar Sant Singh, Mr. K. C. Neogy, Raja T. Manavedan, Maulvi Abdul Rasheed Choudhury, Mr. E. L. C. Gwilt, Mr. Amarendra Nath Chattopadhyaya, and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, this Bill, as the Statement of Objects and Reasons shows, is intended to make the All-India Medical Council an effective and real body not only in

name but in practice also. It is intended by this Bill to give this All-India Medical Council control over the vast number of medical men who are called Licentiates and who as a matter of fact form the back-bone of the medical profession in India, and to regulate the standard of education of this body.

How this defective Bill was passed by this Assembly in 1933 requires a little going into the history of that Bill, but before doing that I wish to state a general proposition which is accepted not only by the Medical profession in India and in England, but throughout the world. Medical profession is intended for the safety of the public and it is incumbent upon the State to prescribe a minimum medical qualification for acceptance by the State and to let the public know that that is the minimum medical qualification which would entitle a practitioner to practise medicine in any country. It is also the duty of the State to provide that minimum standard of education and to provide a register of medical practitioners who are approved by the State as having the necessary qualifications. In England, such a Council, which is called 'General Medical Council' was started as early as 1858 and what they did was to enrol almost every person who was practising in the United Kingdom. They were brought on the register of practitioners and were given a representation on the Medical Council. Section 17 of that Act provided:

"Any person who was actually practising medicine in England before the first day of August, 1815, shall on payment of a fee to be fixed by the General Council, be entitled to be registered on producing to the Registrar of the Branch Council of England, Scotland or Ireland, a declaration according to the form and schedule B, to this Act, signed by him, or upon transmitting to such Registrar information as to his name, address enclosing such a declaration as aforesaid."

So, as a matter of fact, even barber-surgeons who were practising in those days were allowed to be enrolled and brought on to the medical practitioners register. And the object of the Act of 1858 as stated in the Preamble, which is a very short one, was: "An Act to regulate the qualifications of practitioners in Medicine and Surgery", and the persons who were expected to be enrolled were given in a schedule which, among others, includes Licentiate of the society of apothecaries, London, and Licentiate of the Apothecaries' Hall, Dublin. That is the minimum qualification that existed at that time and it exists even today. It was not only that they were recognized for the purposes of this Medical Act but they were also entitled to a membership of the General Medical Council. Not only that, Sir, but by section 42 of the Medical Act, any person who had not the requisite qualification was allowed to become a member if he satisfied the General Medical Council. The result was that almost every practitioner of medicine in England became subject to the regulation of this General Medical Council. In 1886 this Act was amended and power was given to recognise foreign qualifications in British Possessions also: and in 1905 a further amendment was made and it was provided that in British Possessions which have got provinces and Central Government separately, the Council was entitled to recognise provinces as separate British Possessions. So this means that the Council accepted the principle that persons who were practising in several Provinces of India were to be accepted as persons who were qualified to be registered as medical practitioners. Now, Sir, after that we find that several Provincial Governments started passing Acts for regulating Medical education in the various provinces and almost all the eleven big Provinces of India have passed Acts of that kind. At this stage I need not refer to all the Acts, but as a sample only I shall refer to one of the Acts. In Bengal we find that they passed an Act in 1914, and the preamble of that says:

"Whereas it is expedient to provide for the registration of medical practitioners in Bengal, and whereas the sanction of the Governor General has been obtained. . . . It is hereby enacted as follows:—"

It purports to provide for a Bengal Medical Council and the qualification it provides for the registration of persons who are to be entered on the register of the Province is given in section 17. It says:

"Every person referred to in this schedule shall subject to the provisions hereinafter contained and on payment of such fee as may be prescribed by regulation made under Section 33 be entitled to have his name entered in the register of registered practitioners."

[Qazi Muhammad Ahmad Kazmi.]

In the schedule we find that the qualifications are:

"Every person who is for the time being registered or qualified to be registered under the Medical Acts."—

And then part 3 of the schedule says:

"3. Every person who has been trained in a Government Medical College or School in India (or Burma), or in a Medical School in India (or Burma) not maintained but recognised by the (Provincial Government), for the purposes of this schedule, by notification in the (Official Gazette), and holds a diploma or certificate, granted by the (Government concerned) or granted by a (medical school not maintained by any Government) but recognised as aforesaid.

So every Licentiate or person who received a training in a Government school or State-aided school could be brought on to the register of the Province as a medical practitioner. These Acts were passed by Bengal, Madras, Assam, Bihar and Orissa, the Central Provinces, the Punjab, the United Provinces, Bombay and Sind. So the result was that all persons who were licentiates were allowed to be brought on the register of practitioners in those Provinces, and according to these Acts the education of these gentlemen was regulated by the Province or by Medical Boards appointed and approved by the Province itself. These various Acts were passed about the years 1914-16 with the exception of the Sind Act which was passed in 1940. Everything was going on calmly and smoothly, so much so that in 1916 an Act was passed by the Central Legislature, called the Medical Degrees Act. In that Act you will find that recognition was given to the licentiates as much as to the degree holders. It is Act No. 7 of 1916, section 3 provides:

"the right of conferring, granting or issuing in British India degrees, diplomas, licenses, certificates or other documents, stating or implying that the holder, grantee, or recipient thereof is qualified to practise western medical science, shall be exercisable only by the authorities specified and by such other authority as the Provincial Government may by notification in the official gazette and subject to such conditions and restrictions as it thinks fit to impose, authorize in this behalf"—
and in this list you will find—

"1. Every university established by an Act of the Central Legislature, 2. The State Medical Faculty in Bengal, 3. The College of Physicians and Surgeons, Bombay, 4. The Board of Examiners, Medical College, Madras."

So this Act was passed with a view to protect the public from persons who without proper medical training could pose themselves as doctors and rob the public by their false representations. Everything went on calmly and smoothly till we find that the General Medical Council of England in 1922 started some agitation against the Indian Universities. Now the significant fact is that the agitation was started in connection with education in Indian universities. They sent one gentleman in 1922 to inspect the various Indian Medical Universities and to find out the standard of education imparted in those institutions. So far as we have been able to find out, the real motive of making this enquiry into the standard of education of various universities was that Indian candidates who were entering in the I. M. S. competitions had started to take a very prominent place, and the English candidates were being replaced gradually by the Indians and therefore we understand that it was considered by the General Medical Council of England that in the interests of preserving for themselves a larger number of posts there must be some control over Indian universities and restrictions, so that the number of persons passing from those universities may not be very large so as to threaten the existence of the English people in the I. M. S. In 1926 again, the same gentleman was sent to this place and then the General Medical Council insisted on the Government of India to appoint inspectors who would see the standard of education in medical colleges. The medical colleges resented this interference by the General Medical Council in England, and the Calcutta colleges refused the inspectors appointed by the General Medical Council, and the result was that a regular struggle ensued between the General Medical Council in England and the medical profession in India. The medical profession in India wanted to be autonomous, and they said that a foreign body like the General Medical Council has got no right to interfere with the standards of education that are imparted in India. Reciprocity of treatment was also pleaded by the medical profession in India. Boycott of

British products was in their programme, and the struggle continued for a considerable time. The General Medical Council disaffiliated the Indian medical universities in February 1930, and this was very much resented by the whole of the medical profession in India.

It was at that time that Government brought a Bill which is called the All-India Medical Council Bill. So far as the All-India Medical Council Bill is concerned, it has got the fullest sympathy of every person in India that there must be an All-India Medical Council which must be in charge of all the medical education in India, must prescribe a minimum standard of medical education in India and must see that only proper persons are borne on the register of practitioners in India. There can be no doubt about it. But the medical council that was suggested by the Government of India was an absolutely different body. They did not consider it proper to include the whole of the medical profession in India but only the degree-qualified men. A conference of officials was held in Simla in June 1930, in which provincial ministers and other nominees of the Government assembled, and they drafted a Bill. The draft of that Bill was sent through the Government of India and the Secretary of State to the General Medical Council in England and the General Medical Council in England made the necessary changes which they considered in the interest of their own objects and after that draft had been approved by the General Medical Council, it was sent back and it was introduced in the Assembly and in spite of the protests the thing was passed by the Assembly. Even then the Government felt that they would not be justified in making the rules by which all these licentiates would be excluded; with the result that though the Bill contemplated a register of medical practitioners for India, it was rejected by the Select Committee and the Bill that emerged out of the Select Committee and was passed by the House did not provide for a medical register of practitioners, but only established a council which was to see the minimum qualification of medical colleges.

This resulted in a division in the profession. Now there exists a vast body of licentiates and other medical practitioners in provinces who received their education in several provinces and who got their diplomas and their certificates; the Government recognises their qualifications; they are on the provincial registers; and then we have got degree colleges which alone are being regulated by the All India Medical Council; and they only regulate the education in those colleges, though they in their turn are as much provincial subjects and are as much supported by the provinces as the other institutions; but we know that under the present constitution medical science and education is a transferred subject, and as such though the provinces really pay to all the medical colleges still the control is held by the All India Medical Council, but so far as the other examining bodies and other medical institutions are concerned, they are to be regulated by the provincial medical members or the Provincial Governments.

Now, it is not only a question of control but it is a question of minimum qualification. These licentiates receive a training of from four to five years in medical institutions, while the training prescribed by degree colleges is five years. Licentiates have been claiming for the last forty years that the standard of their education should be raised in the provincial medical schools, so that they may be on a par with other medical institutions. As a matter of fact, as I will show later from the opinions, it is not correct to say that the education and qualifications of licentiates are in any way less than the qualifications of persons who are allowed to be brought on the medical register of the General Medical Council in England. We are producing persons of no inferior status and position amongst the licentiates: they are on the same level of training and education as persons allowed by the General Medical Council to be brought on the register.

Dr. J. C. Chatterjee, Gynæcologist and specialist in diseases of women and children, in Calcutta Medical School and hospital, wrote in 1931:

"My reply to Government regarding the proposed Indian Medical Council was the same as that of the Bengal Branch of Indian Medical Association of 67, Dharamtolla Street. I have specially included the Licentiates in the group as I really feel that there cannot be a Medical Council in India if we omit this important and useful class."

This is the part on which I rely:

Mr. J. D. Tyson (Secretary, Department of Education, Health and Lands): May I ask what the Honourable Member is reading from? Is it the circulation papers of 1933?

Qazi Muhammad Ahmad Kazmi: Yes.

"The General Medical Council (British) recognises the L.S.A. qualification of London which is a lower qualification. The L.R.C.P. of London and Edinburgh which is equivalent to our L.M.F. qualification is also recognised there. I find no reason for excluding this qualification."

So, according to an authoritative opinion, the qualification of L. M. F. of Indian Medical Schools is in no way less than the qualification of persons who are enrolled by the General Medical Council in England. So far as practice is concerned, Honourable Members may be familiar with the fact that L. M. F. people are very often kept in charge of hospitals as much as degree holders. Some licentiates of India have obtained very prominent positions in the medical profession. I may just point out that in actual practice the various Provincial Governments really make no differentiation or distinction as to the charge which is held by a licentiate or a medical degree holder. Just for the present I can cite the instance of Delhi, itself. Here I made enquiries and found that in the Civil Hospital of Delhi; Rai Bahadur Hari Ram who was an L. M. F. was in charge of the indoor section of the hospital in Delhi and an assistant surgeon was in charge of the outdoor section. That went on for a number of years. Subsequently the order was reversed and he was put in charge of the out-door section and a medical degree holder was put in charge of the indoor department. Again, we have a very good hospital of good standing known as the Willingdon Hospital. I enquired and found that Dr. Muftaba who holds a licentiate qualification was in charge of the indoor section and a degree holder was in charge of the outdoor, but the position was subsequently changed. In actual practice the Government is making no differentiation or distinction between the two sets of people except for the purpose of pay. It is in their interest to keep a lower grade, a lower type of practitioners so that they may not have to pay them on the same level as to others, so that they may exploit the services of people who are equally qualified, but whose services can be obtained on a lower salary. That is the real reason I am afraid, that is the reason why various Provincial Governments have opposed this Bill. I know that the Government of India is guided by the opinions of Provincial Governments, but we have at the same time a right to examine and analyse the opinions of those Governments and find out the reasons why they are doing so. They want to get persons of good qualification but at the same time they want to pay them less. For that purpose, they, in India alone, have succeeded in making two watertight compartments in medical service. Of course, that division is deeply resented by the profession. So, the only thing left to the licentiates was to knock at the doors of Provincial Governments and say, "Any deficiency that you find in our education please remove". Not only did they do that, but they even approached the All India Medical Council. This All India Medical Council, it is very strange, is also in sympathy with these licentiates to some extent. They passed a resolution in 1942. I will read the resolution:

"(a) Provision should be made for the maintenance of an All-India Medical Register by the Medical Council of India.

(b) This Register should include the following two groups:

(i) All persons who hold qualifications borne on the schedules to the Indian Medical Council Act, 1933.

(ii) All persons who are practising the Modern Scientific system of Medicine in British India on the date the Register comes into force and possess qualifications granted on or before 31st December, 1947, by Examining Bodies in British India (other than the Universities) and whose names are on the Registers maintained by the Provincial Medical Councils on that date."

I need not read the rest.

Mr. J. D. Tyson: I would ask the Honourable Member to read the rest.

Qazi Muhammad Ahmad Kazmi: I will do so.

"The Council further resolved to request the Central Government to take early steps to implement the above proposals and also to ask the Provincial Governments to abolish

the medical schools for licentiates or raise them to the university standard in their respective Provinces so that there would in future be only one uniform minimum standard of medical qualification for the whole of British India."

The whole resolution is before the House, and Honourable Members will see that what was intended was that persons who have received education in these medical schools up to 1947 should be brought on the All India Register of Medical Practitioners, and by that time the standard of education of those schools should be raised to the status of colleges and these schools be abolished. On the question whether these persons should be brought on the All India Medical Register, the decision was that every person who received education in these institutions up to 1947, the date on which these institutions would be abolished would be brought on the All India Register; and as a matter of fact, no All India Register can be complete without bringing these licentiates on that Register, who are more than 60,000 in number, and the number of degree holders would be not more than 15,000.

Mr. J. D. Tyson: 30,000 licentiates at the outside.

Qazi Muhammad Ahmad Kazmi: And what is the number of degree holders?

Mr. J. D. Tyson: About 14,000.

Qazi Muhammad Ahmad Kazmi: According to the Honourable Member, the number of degree holders is about 14,000, and the number of licentiates is 30,000. That is almost double. How can you disregard the education and the qualifications of this vast bulk of people who handle human life in this country? You can say that you have got an efficient and proper All-India Medical Council. Why should not these persons also be regulated by the All India Medical Council? Why should they be left to the tender mercies of the Provincial Governments? I will read out the opinions of some of the Provincial Governments and you will understand the reason why they oppose my Bill. They say that they will lose control over these people. I will just quote the opinion of the Bengal Government: The Bengal Government has been guided by the opinion of the President of the Bengal Council. They have said so openly. They say:

"While generally agreeing with the views of the Bengal Council of Medical Registration and those of its President, who is also the Surgeon General with this Government. . . ."

The Provincial Government observe as follows. Now, Sir, I will explain that the President of the Bengal Medical Council has been guided by the opinion of the Registrar of the Medical Council. This Bengal Medical Council is in charge of provincial education in Bengal. The reasons they give are very significant and I will request the Honourable Members to bear them in mind while reading the opinions. It says:

"The amendments proposed are, however, important from the point of view of the Provincial Medical Councils and the Provincial Governments, for, if accepted, they will cripple (if not, altogether take away) the powers and functions of both in respect of medical school education and Licentiated diplomas, for which they now have powers and functions."

So, one of the chief reasons advanced by the Registrar of the Council is that he will lose control over medical licentiates if the Bill is accepted. They will come under the control of the All-India Medical Council and, therefore, they will have to suffer. It is for the House to consider how far this reasoning can be justified. The Provincial Government oppose the Bill simply because they will lose control over the licentiates.

Further on they say:

"The Statement of Objects and Reasons at the end of the Bill suggests a mistrust of the Provincial Governments (and *inter alia* of the Provincial Medical Councils) and makes no secret of the main purpose, namely, that the Central Medical Council (The Indian Medical Council) should assume full control over the lower, *i.e.*, the medical school education, as well. It—and not the Provincial Government or the Provincial Medical Councils—will direct what should be the standard of education in the medical schools (and *inter alia* whether any such schools should be recognised), it being open to it to abolish altogether medical school education as such."

That clearly means that any transfer of power to the All India Medical Council may result in the advancement of the standard of these institutions, resulting in bringing about a number of qualified persons whom they do not want. Is it in equity or justice a proper thing that the Provincial Governments should encourage a large number of people to take care of the health of the

[Qazi Muhammad Ahmad Kazmi.]

masses? If the figures given by my Honourable friend are kept in mind, then there will be more people treated by these licentiates than by these degree holders. On the one hand you say that the standard of education is lower and should not be recognised for All India purposes and at the same time you maintain these schools because you get lower paid men. What right have they got to hand over the care of the masses of India to people whom they do not consider to be properly qualified? They themselves say:

"Judging the conditions in Bengal, for instance, the Licentiates supply the needs of the rural areas where the bulk of the people are poor, and where an M.B. would not, with his superior training and natural ambition, care to go. This does not mean that the medical school education should not be improved but that is a different matter and in any case is a matter for which the Provincial Government will have to find the finance."

On the one hand they say that these men serve on small pay and at the same time they say that they are not competent to carry on the medical profession. Then it says:

"It then proposes to include in the Schedule of the Indian Medical Council Act the diplomas (meaning the L.M.F.'s etc., from the medical schools) recognised by the Provincial Governments. This latter, at first reading, appears innocent: but taken with the consequential effects, as I have submitted above, the recognition by the Provincial Governments will always be subject to 'veto' by the Indian Medical Council and will thus mean nothing."

What the Provincial Governments are afraid of is that medical councils shall be taken away from their hands, their status will be increased and more efficient persons will come in, that in case of dual control, the power of veto may lie with the Provincial Councils, with the result that they will have no say in the matter. Is that not an absolutely selfish ground, for maintaining and trying to maintain a very large class of people with low qualifications?

Now, Sir, if you will examine the opinions of the various Governments you will find that on account of all this they have opposed this Bill. It is not only that but you will also find that some Governments and some gentlemen have termed the Bill as a retrograde Bill. Now, can the Bill be regarded a retrograde Bill? I have already submitted that what we want is to hand over the control of the medical schools to the All-India Medical Council who should prescribe the standard of qualifications which should be acceptable to the whole of India. We do not want to decrease it. Now, we were blamed by one Government that we want to increase the standard of education and, therefore, we wanted to refer it to the All-India Medical Council. Another province comes forward and says that the Bill will result in lowering the qualifications of the various persons. How it will lower the qualifications, I cannot understand. There is no question of lowering the standard. All that we want is to increase the qualification of the lower class and bring it on a proper level so that every medical practitioner should be a competent man. You will find, Sir, that the Government of its own necessity has not hesitated on account of their present emergencies to accept some licentiates as persons of higher qualifications though only temporarily. I am referring to L.C.M.F. and M.C.P.S. qualifications which are included in the Schedule of the Bill. Now, when the necessity has arisen, they select out of these people and say that they are properly qualified men. But we say that the Government should not look only to the present emergency or to the exigencies of the occasion but they must seriously consider the situation and give proper recognition to those who are to be properly qualified. We say let the All-India Medical Council abolish all those schools which do not come up to their standard. The Provincial Governments say, "No, we want to maintain them and we will continue to produce incompetent men".

Mr. J. D. Tyson: Will the Honourable Member please tell us how, even if this Bill is passed, the Indian Medical Council can abolish any school in a province?

Qazi Muhammad Ahmad Kazmi: Under the Indian Medical Council Act they can prescribe the minimum qualifications and if any educational institution is not imparting the proper standard of education, they can recommend to the Governor General in Council for its deletion from the Schedule. So, they can regulate the standard of education. Supposing anyone of the Indian Medical

Colleges does not impart education of the standard which is prescribed by the All-India Medical Council, will it not be disaffiliated?

Mr. J. D. Tyson: The graduates of that college can still go on practising in the province unless the Provincial Government does something. That is the present position.

Qazi Muhammad Ahmad Kazmi: My Honourable friend is again confusing. He asked me whether the Indian Medical Council can regulate their education and if any school is not. . . .

Mr. J. D. Tyson: I asked the Honourable Member how they can abolish a school in a province.

Qazi Muhammad Ahmad Kazmi: They would not recognise it as an institution which should be on the Register of the All-India Medical Council. What I say is this that the Provincial Governments should not be allowed to be in sole charge of these institutions for their own profit but that medical education should be looked upon from the point of view of the public. The whole of the medical education in India should be co-ordinated. That is my point. A similar question was asked by one of the Provincial Governments. On page 20 the Madras Government say:

"In the first place Provincial Medical Councils are now exercising disciplinary control over the medical practitioners, graduate and licentiate, whose names are included in their register. If they are also included in the contemplated All-India Register and the Medical Council of India is given similar control that would at once involve dual control over the same set of practitioners with all its attendant complications. If, however, disciplinary control is to be exercised in future only by the All-India Council, it would be exercised by a remote authority and proceedings would be dilatory, expensive and burdensome."

They have contemplated that the medical control is to be exercised by each body. They say that if it is to be given to us, then it would be dual and if it is given to the Government of India or the Medical Council, the result will be that the control would be too remote. Now, Sir, the control would not be too remote in the case of medical graduates because they are being controlled by the Indian Medical Council and they say that if you bring in licentiates also under them, then the control will be lax. This is what the Madras Government says. But I maintain just the contrary. I say that the control must be with the All-India Medical Council. . . .

Mr. President (The Honourable Sir Abdur Rahim): Honourable Member can continue his speech after lunch.

Dr. P. N. Banerjee (Calcutta Suburbs: Non-Muhammadan Urban): Sir, with your permission I should like to mention that through inadvertence my Party failed to nominate a candidate for the Railway Convention Committee. The time expired yesterday at noon but if you permit the House to extend the time, one nomination paper might be filed.

Mr. President (The Honourable Sir Abdur Rahim): In the exceptional circumstances, I extend the time to 5 O'clock this evening for the filing of the nomination to the Committee to consider the Convention regarding the railway finance.

The Assembly then adjourned for lunch till Three of the Clock.

The Assembly re-assembled after Lunch at Three of the Clock, Syed Ghulam Bhik Nairang (One of the Panel of Chairmen) in the Chair.

Qazi Muhammad Ahmad Kazmi: Mr. Chairman, when we adjourned for lunch I was discussing the letter sent by the Madras Government. The first part of this letter—leaving the first paragraph which is not relevant—in the first place, contains an objection to this Bill. The Madras Government in their letter say:

"In the first place Provincial Medical Councils are now exercising disciplinary control over the medical practitioners, graduate and licentiate, whose names are included in their register. If they are also included in the contemplated All-India Register and the Medical Council of India is given similar control that would at once involve dual control over the same set of practitioners with all its attendant complications. If, however, disciplinary control is to be exercised in future only by the All-India Council it would be exercised by a remote authority and proceedings would be dilatory, expensive and burdensome."

[Qazi Muhammad Ahmad Kazmi.]

Now, Sir, this almost summarises the many objections that have been raised by other Provincial Governments also. In brief this objection comes to this. . . . that a control by the remote authority cannot be. . . .

Mr. J. D. Tyson: Sir, may I just point out that the Madras Government's objection to which my Honourable friend is referring was not to his Bill—though, of course, they do object to his Bill, but to the proposal that there should be an All-India Medical Register which is not in my Honourable friend's Bill at all.

Qazi Muhammad Ahmad Kazmi: It is in connection with the resolution of the All-India Medical Council that was to the effect that all Licentiates up to 1947, should be enrolled on the Register of the All-India Medical Council and by that time the education of Medical Schools should be raised to one standard and then there will come into existence one All-India minimum standard of qualification. No doubt this opinion is not about it, but so far as I know same objection has been raised by other Provincial Governments also. The Bengal Government's objection was from the point of view that the medical schools will come directly under the control of an All-India Medical Council and Provinces will be deprived of that control. What loss will it be to the medical profession if the Provincial Governments cease to have control over those medical schools which will come directly under the control of an All-India Body? I personally find no reason for that proposition. But in this letter of the Government of Madras you find the reason given is that the control would be a remote control. My submission is. . . .

Mr. J. D. Tyson: I am sorry to keep on interrupting my Honourable friend. It refers to a disciplinary control over medical practitioners, graduates and licentiates whose names are included in the Register. In other words what the Government of Madras is a little afraid of is not the matter before the House but what they are afraid of is the future central register. When a question arises of misconduct of a practitioner he will have to come to Delhi or where-soever the Central Body may be to defend himself and that is what the Madras Government is dealing with. It does not in any way arise out of the Bill before the House.

Mr. Chairman (Syed Ghulam Bhik Nairang): I think the Honourable Member should better keep himself relevant to the point under the Bill.

Qazi Muhammad Ahmad Kazmi: I think it is fully relevant. My Honourable friend has done well to have interrupted me at this moment, so that I may give a reply. The object of my present amendment is just as I said at the very outset to bring the whole of medical profession both education as well as profession under one All-India Medical Council. That All-India Medical Council would be a body which would regulate not only education but profession also and no All-India Medical Council can be an effective one unless it has got control over the profession. As a matter of fact, the Bill that was brought before the Assembly in 1933 gave both these powers to this All-India Medical Council, that, it will have a register for all-India medical practitioners as well as regulate the minimum standard of education in colleges. But Government at that time found some difficulty to maintain an All-India Register because no All-India Register could be complete without bringing in licentiates on that register. Therefore, that part of the Bill which related to a common register was dropped in the Select Committee. Therefore, what remained? There remained only an All-India Medical Council which is to regulate the standard of education. Now, Sir, I submitted at the very beginning that in every civilized country in the world the main central body is the General Medical Council. The All-India Medical Council is not only intended to prescribe the minimum standard of education but is also intended to have a register of qualified people who have degrees of M.B., etc., or who are licentiates or other persons with medical training, entitling them to register their names in the register kept by the Central Body. So far as the Provinces' objection is concerned, they say they will have no control. The Central Body cannot have such efficient control as the Provinces. If that argument is correct then it should apply to any

Register which is brought into existence by the Central Body. If this plea of control is to be taken as to be sufficient one then in my opinion the idea of an All-India Register would have to be abandoned for all time to come which is an absolute necessity for the profession. So, the Medical Council will have both things, that is, an All-India Register as well as prescribing of the minimum standard. That is the reason I have included it in my argument and I am prepared to supplement my Bill with these provisions if the Government are agreeable to it. Without these provisions the present Act is not an Act at all. If you want to have an Act, you must have full Act with all its implications. On account of certain contingencies, if you cannot have a full Act, then it is better to repeal the whole Medical Council Act. Either have the full Act or do not have anything at all. This shows that the opinions about which I was discussing were based on not a proper understanding of the whole position.

Now, let me come to the next position which more directly concerns my Bill. It is said that the inclusion in the All-India register of all the licentiates would inconvenience the medical graduates in many ways. If the licentiates and the medical graduates are given the right to stand as candidates for election to the all India Medical Council, the Licentiates will, by sheer weight of numbers, obtain a preponderant voice in the proceedings of the Council whose main function now is to control higher medical education. If on the other hand licentiates are merely enrolled in the register or are denied representation on the Council with or without the right to vote at elections, they would have legitimate cause of discontent. This would provoke bitterness of mind among a numerous body of practitioners of medicine throughout India, a result which it would be expedient to avoid at any time and particularly in present conditions.

Now, just a remark about the interruption made by my Honourable friend sometime before. If he wants to be satisfied, I can quote other opinions. Instead of going to other opinions and quoting them before the House and taking up the time of the House, let me straightaway meet the criticism that is levelled against the Bill. By my Bill I want some more medical practitioners to be brought on the All-India Medical Council. Section 3 of the All-India Medical Council Act says that the Central Government shall cause to be constituted a Council consisting of the following members, namely, one Member from each Governor's Province to be nominated by the Central Government. This would mean eleven. The section further says: one member from each of the British Indian University to be elected by the members of the Senate of the University or in the case of the University of Lucknow, the Court from among the members of the medical faculty of the University. The number of medical Universities, so far as I know, is eight. So eight members from the medical Universities will be included. Next, one member from each province where the Provincial Medical Register is maintained to be elected from amongst those by persons enrolled on the register who possess the recognised qualifications granted by British Indian Universities. So far as I know their number is nine. Then comes four members to be nominated by the Central Government. The only change that I want to make in this constitution is that instead of four members, six members should be nominated by the Central Government out of whom three are to be licentiates. So, I want in this Council of 34, a representation for only three. It is urged against this that because in the Provincial Register the number of licentiates is larger than that of the M.Bs., therefore, they will sweep the polls and no medical graduates will be returned and, therefore, the whole thing will be unbalanced. Now, Sir, let us see how many persons are taken from the Provincial Register: they are only nine. Suppose for argument's sake, that if all the licentiates conspire together and not return any M.Bs. to the Medical Council, then the result would be that at the most nine persons from the Provincial Registers and three persons from clause (a), that is, 12 persons will come from the licentiates. We have got further to see that three persons who are to be elected from among the licentiates are to be nominated by the Government. So, you cannot say that those persons

[Qazi Muhammad Ahmad Kazmi.]

who are nominated by the Governor General in Council even from among the number of licentiates would be such as to try to deteriorate the standard of education to be prescribed by the Medical Council. Taking the extreme case that all the 12 persons go against it, then in a body of 34, how can only 12 persons be able to over-ride the decisions of the majority. I want the House to appreciate this proposition fully, namely, that even if no medical graduate is returned and even if the licentiates sweep the polls, even then they cannot have their own way and lower the qualification. The whole system cannot be smashed. This is how they are arguing. But if they analyse the position, they will find how it is possible for 12 persons even if there is the bitterest enmity between these two classes,—so much so that no licentiate shall ever vote for any degree man,—then these 12 will not be good enough to over-ride the decisions of the council of 34. My submission is that this is absolutely off the point. This argument cannot be considered to have any weight behind it. This is the second point raised in this letter. In this connection, I want to mention one thing more. I have admitted and repeated that licentiates have been trying to raise the standard of their education.

The other question I want to bring to the House is that even the standard of education of licentiates is not lower than that of the licentiates of other places. Not only that. Even the persons who are recognised by the General Medical Council of England have not got a higher and better training compared with the licentiates of this place. I have already quoted opinions of Dr. Chatterjee. I now want to place before the House actually the curriculum that has been prescribed by the General Medical Council and I would request Honourable Members of this House to compare that curriculum and find out for themselves if it can be said that the standard of education here is lower. I am reading from the original Government Resolution sanctioning introduction of five years medical training at Agra:

"We reproduce below the details of the minimum qualification demanded by the General. . . ."

Mr. Chairman (Syed Ghulam Bhik Nairang): Is the Honourable Member quite sure that he can discuss matters of curriculum and all those details in connection with this Bill?

Qazi Muhammad Ahmad Kazmi: Yes, Sir.

Mr. Chairman (Syed Ghulam Bhik Nairang): The Honourable Member is going into too many minute details.

Qazi Muhammad Ahmad Kazmi: The difficulty is, Sir, that the L. M. S. of India is considered inferior to the L. M. S. which has been recognized by the General Medical Council of Britain. I say, he is not. But they say 'you are talking something for which you have got no foundation, because the name may be the same, the grade may be the same but the training is different'. The training is of two kinds: Training preliminary to the actual beginning of the medical education and the training which is given during the course of medical education. Now, Sir, so far as the actual medical education is concerned, the General Medical Council has prescribed a four-year curriculum for the teaching of medicine. They have included one year more for clinical work in the laboratory after finishing the studies, but in India we find that some of the Licentiates' period of actual medical training varies between 3½ to 4½ years. Some go so far as 5 years. So, the period of training for some of the Medical Schools is even larger than prescribed by the General Medical Council. Therefore, it is clear that so far as the period of Medical training is concerned, both stand on the same footing, but they may say that the persons who enter the Medical Schools have not got the same capacity to understand things as those persons who are allowed to enter the L. M. S. training of British institutions and for that reason, Sir, I am going to read out this. I will not read the whole Resolution but shall only indicate that the curriculum which is intended for the Universities there is in no way superior to the curriculum which is to be found in the Universities of India.

It is stated here:

"English grammar, composition and literature—

Candidates should be prepared to answer questions in History and Geography arising out of the subject matter of the examination;

(b) Latin or Sanskrit or Persian or Arabic Grammar; translation into English from the prescribed Course; translation into Latin;

(c) Mathematics, Algebra Geometry including books No. 1, 2, 3 and simple deductions, and one of the following subjects:

(1) Translation into English—unprescribed, and

(2) Hindi, Urdu, Gujarati translation into English and *vice versa*."

These are the qualifications for entering into that examination; this is a preliminary necessity for a student for that examination. We can very well understand and judge that the subjects which are dealt with in this book are any better or superior to that of Matriculation Examination of any Indian University and there is no school, not today but for a considerable length of time, which has ever allowed candidates who had not the same preliminary training. And, as a matter of fact, now Science, Biology and other subjects have been introduced even in the Matriculation Examination which would qualify a person for entering that profession.

I submit that the course of study of medical education is five years:

"The following rules from the regulations of the General Medical Council regarding recognition of Medical qualifications are reproduced below which will show how far the Agra Medical School satisfies the requirements. Existing Licentiates fulfil these requirements."

"The period of professional study between the date of registration as a medical student and the date of the final examination for any diploma which entitles its holder to be registered under the Medical Act, should be a period of a *bona fide* study during not less than five years."

"The first four of the five years should be passed at a School or Schools of Medicine recognized by any of the Licencing bodies enumerated in Schedule (A) of the Medical Act (1858) and subsequent Acts." and

"the fifth year should be devoted to clinical work at one or more of the public hospitals or dispensaries, British or Foreign, recognized by any of the Medical authorities mentioned in Schedule A of the Medical Act of 1858, and subsequent Acts."

So, a perusal of this would convince the House that, as a matter of fact, from the point of view of medical training or from the point of view of preliminary qualifications the licentiate of India does not stand on a lower scale than the licentiate who is recognized by the General Medical Council.

Now, Sir, I would draw the attention of the House to the provisions of the Medical Council Act to show as to how this Act ignores the licentiates of India while it recognizes degrees of other places. Schedule 2 of the Indian Medical Council Act gives the qualifications of foreign universities or foreign places which are recognized as sufficient for one's registration in India as a qualified medical practitioner. It includes:

"Canada: College of Physicians and Surgeons of the Province of Alberta, C.P.S."

Leaving other big ones, I find that in so far as Nova Scotia is concerned, it includes:

"L.M.S. of Nova Scotia Provincial Medical Board."

And again, for Newfoundland:

"L.M.S. of Newfoundland Medical Board."

We can very well claim that the Provinces of Bombay, Madras and the United Provinces would be much greater and would have a more sound financial basis than places like Nova Scotia and Newfoundland. Now, we find that the L. M. S. is not turned out by any university in Nova Scotia but by the Provincial Medical Board, which is recognised as a sufficient qualification for enrolment as a practitioner by the All India Medical Council Bill.

Mr. J. D. Tyson: I am afraid, my Honourable friend's copy of the Act is not up to date. I submit that the Colonial degrees to which he referred are no longer recognised in the Second Schedule, i.e., from a date in 1942 no person who obtains those qualifications after that date will obtain qualifications recognised in India.

Qazi Muhammad Ahmad Kazmi: I am thankful to the Honourable Member for this correction. I took the Indian Medical Council Act from the Library and no corrections were there. Again, I would point out that I gave notice of this Bill in 1939, and then again in 1942. So that, at least at the time when

[Qazi Muhammad Ahmad Kazmi.]

the notice was given of the Bill and at the time the Bill was circulated, these qualifications stood and it appears now that they have colleges and those colleges are recognised. But I have no information about it.

Mr. J. D. Tyson: The position is that recognition will not be accorded to those qualifications if they have been acquired after certain dates, or perhaps they are of the same date.

Qazi Muhammad Ahmad Kazmi: After what date?

Mr. J. D. Tyson: After the 31st March, 1942.

Qazi Muhammad Ahmad Kazmi: It substantiates the point, I have been making out. You yourself now find that my criticisms are correct. The degrees of Nova Scotia and Newfoundland ought not to have been recognised, and now the Government is forced to say that we cannot recognise all persons who passed after 31st March, 1942. Now, you have so far recognised those people. Even now you are prepared to register persons who have qualified in the examination held by those medical boards before the 31st March, 1942. If any person comes, you will have to register his name, but persons whom your own Provincial Governments have been recognising from as early as the Acts of 1916 and 1914, you are not going to recognise them. They were not recognised by this Medical Council Act of 1933. It is only after a period of nine years that the Government discovered that the licentiate of Nova Scotia and Newfoundland do not possess the necessary qualification. But why the Licentiates of India were discarded from the first day of 1933? Now, I have the General Medical Council Act and probably my friend would himself be able to find out whether in the Act of 1886 this Nova Scotia and Newfoundland were recognised or not. One of the reasons may be that probably something has happened to the General Medical Council and they have made a change according to it. Anyway, this only substantiates the proposition that I have been laying before this Honourable House that persons of India, who have been discarded, are in no way possessed of less qualification than the persons who were recognised by the Indian Medical Council Act as entitled to have their names registered as efficient medical practitioners.

I will now leave that point and would very briefly refer to the main criticisms that have been offered by some of the Governments against this Bill. The Government of Baluchistan is for the Bill. Then I am sorry to find that the Government of Panth Piploda could not make up its mind about this Bill. Then we find that the Chief Commissioner of Coorg has supported the Bill. I then come to the Province of Sind which is fully represented in this House by my Honourable friend, Mr. Lalchand Navalrai, and I am very pleased to inform him that his Government also supports this Bill. They say:

"I am directed to state that the Government of Sind agree to the amendment proposed to the Indian Medical Council Act."

I do not want to attribute motives, but in my humble opinion what is the reason that this Government of Sind is with me? Probably they have got no medical college in that Province.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): We have got a school for licentiates.

Qazi Muhammad Ahmad Kazmi: Then your Government is a far-sighted one!

Then I come to the Punjab. The Punjab opposes the Bill. Leaving the other portions, the main criticism is contained in one para. It says:

"The Provincial Government do not support the Bill, the effect of which, they are advised, would be to add a substantial body of Licentiates to the Medical Council of India."

Now, Sir, I have already pointed out the hollowness of that argument. They further say:

"It is of course true that it is only the Central Government who are empowered to amend the Schedules to the Act. At the same time it is contended that the addition to the Council of a substantial body of Licentiates might lead to dissensions between the Council and the Central Government as well as to dissensions in the Council itself."

Now, Sir, is that an argument worth considering or worthy of a Provincial Government? They say that if the number becomes large the members will start fighting among themselves, or they will start fighting with the Government, or it might lead to a revolt in the Council itself. I have not been able to make out what is the basis of this extraordinary criticism that has been levelled by this Government of the Punjab against this Bill. Moreover, the Provincial Government say:

"That there is little justification for the amendments proposed. All-India Medical Council is concerned with international matters. The Licentiate has little standing and it seems to the Provincial Government that it will be wrong to allow this body to interfere in the settlement of schemes of reciprocity with foreign medical authorities."

I submit and I maintain that the standard of education, whether preliminary or later, in India, is quite comparable, favourably with that of any other country. So, this is no ground. These are the two grounds on which the Punjab Government have opposed this Bill. The N. W. F. Province have supported this Bill. Now, let me turn to persons who have opposed it so that I may examine the grounds on which they have opposed it. I have read Bengal already. Let me give a very short extract from a long note of the U. P. Government, and that is the most important part of their views:

"In the United Provinces, the Medical School at Agra has been converted into a Medical College affiliated to the Agra University but a large number of medical schools still exist in other provinces. If Provincial Governments are left to themselves these schools are likely to continue, the reasons being that their conversion into medical colleges would involve much additional cost while their abolition would be opposed by vested interests. It is well known that the medical schools with their lower standards of qualification for admission and curricula are historical anachronisms. . . ."

The Government, though they themselves have taken the step of abolishing the medical school and raising it to the status of a college, oppose this Bill not because they think that the standard of education will not be high, but only because the provinces will find themselves. . . .

Mr. Chairman (Syed Ghulam Bhik Nairang): The Honourable Member has said that many a time. He need not repeat what the motives of the Provincial Governments are. That has been said so many times during the course of his speech.

Qazi Muhammad Ahmad Kazmi: But unfortunately for me, they have repeated the same argument. Then I would simply read their argument and shall not give a reply. Sir, I would, before closing, read out one or two passages regarding the allegations made by me that this All India Medical Council Bill was brought into this House on account of the insistence of the General Medical Council and that it was with the consent of the Secretary of State that this Bill was introduced in the Assembly. Unfortunately, I could not get the original opinions that were circulated at the time of the discussion of the Bill in 1933, but whatever extracts were quoted before the House itself are to be found in the proceedings of the Legislative Assembly of that time. I will read to the House a short extract. Mr. Maswood Ahmad in his speech on the 13th February, 1933, said:

"In this connection, Mr. Deputy President, I want to discuss the point which my Honourable friend, Mr. Bajpai, has given the first place in his speech, that this Bill has not been drafted on the dictation of the General Medical Council. I say that this is my first objection and that there are several reasons for a suspicion in the public mind about this Bill. The Bill seems to be drafted, no doubt, to please the General Medical Council. Sir, in this connection, I want to read a passage from the opinions which have been supplied. At page 50, you will find a very interesting letter. . . ."

Mr. R. R. Gupta (Cities of the United Provinces: Non-Muhammadan Urban): I beg to draw your attention, Sir, to the fact that there is no quorum in the House.

(Mr. Chairman then ordered the ringing of the Division Bell; after taking a count.)

Mr. Chairman (Syed Ghulam Bhik Nairang): Now there is quorum. The Honourable Member can resume his speech.

Qazi Muhammad Ahmad Kazmi:

"At page 50, you will find a very interesting letter—I do not know whether the letter has been printed by mistake or not, but there is a letter from the India Office, dated the 17th December, 1931, which says:

[Qazi Muhammad Ahmad Kāzmi.]

"I am directed by the Secretary of State for India in Council to transmit, for the information of the Government of India, a copy of the correspondence with the General Medical Council on the subject of the Revised Draft Bill for the Establishment of an All-India Medical Council."

Further on,—

"2. The Secretary of State has no doubt. . . that revised draft Bill has now been accepted by the General Medical Council."

The letter further says:

"and he trusts that it will be possible to introduce it at the next Delhi session of the Indian Legislature."

There is one more reference that I want to place before the House, and it is a quotation from the British Medical Journal, which is the chief official organ of the General Medical Council. It says:

"The Council had, however, in recent years laid stress on the fact that there should be adequate opportunities for employment on the civil side and in the new proposals for the reorganisation of the service valuable concessions have been obtained from the India Office by the Association in this respect."

These few quotations make it abundantly clear that the very object of this interference by the General Medical Council was only to keep some hand in reducing the number of persons who qualify themselves as medical licentiates. To summarise my argument, I do not want to repeat, the present All India Medical Council Act is against the traditions . . .

Mr. Chairman (Syed Ghulam Bhik Nairang): Is not the Honourable Member merely repeating what he has said, when he says that he is going to summarise? His whole argument is before the House.

Qazi Muhammad Ahmad Kazmi: I would not be repeating, I would only just enumerate.

Mr. Chairman (Syed Ghulam Bhik Nairang): Enumeration of what has gone before?

Qazi Muhammad Ahmad Kazmi: Of the points that have to be considered by the House.

Mr. Chairman (Syed Ghulam Bhik Nairang): All the points are already before the House. To enumerate them again would be merely taking too much time of the House.

Qazi Muhammad Ahmad Kazmi: Then I think it is unnecessary for me to say anything more, except to commend my motion to the House.

Mr. Chairman (Syed Ghulam Bhik Nairang): Motion moved:

"That the Bill further to amend the Indian Medical Council Act, 1933 be referred to a Select Committee consisting of the Honourable Sir Sultan Ahmed, Mr. J. D. Tyson, Dr. T. G. Spear, Dr. Sir Ratanji Dinshaw Dalal, Mr. Govind V. Deshmukh, Sir Syed Raza Ali, Sir Muhammad Yamin Khan, Mr. Lalchand Navalrai, Sardar Sant Singh, Mr. K. C. Neogy, Raja T. Manavedan, Maulvi Abdur Rasheed Choudhury, Mr. E. L. C. Gwilt, Mr. Amarendra Nath Chattopadhyaya, and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Dr. Sir Ratanji Dinshaw Dalal (Nominated Non-Official): Mr. Chairman, I shall not detain the House for more than a few minutes. Sir, I fully recognise the services rendered by the licentiates, the men who come into contact with suffering and who come to the relief of the poor and who carry the torch of Western medicine into the remote corners of the rural areas. But, Sir, the Bill, which is now before this Honourable House, does not provide for any improvement in the medical education of the licentiates. The system of education given in the medical schools is quite different to that in the medical colleges. This Bill seeks to perpetuate the present educational standard of the licentiates, and by removing the word 'higher' from the Preamble of the Indian Medical Council Act of 1933 it proposes to give to the present licentiates, with the present educational qualifications, the same position as that of the medical graduates. Therefore, this Bill seeks to lower the minimum standard of medical education in the whole of India to the level of that now obtaining in the case of licentiates. So, the object of creating the Indian Medical Council will be defeated if recognition of the licentiates is provided for in the Indian Medical Council Act, and the General Medical Council would decline to accord recognition to medical qualifications recognised by the Indian Medical Council. My Honourable friend, Qazi Muhammad Ahmad Kazmi,

makes the most of the fact that the licentiates have been put on the Provincial Register, and so he urges that they should be on the All-India Medical Register also. That the licentiates have been put on the Provincial Register is due to the peculiar conditions of India and to discriminate them from unqualified practitioners for Government and local board service of a subordinate grade and to bring them under the disciplinary jurisdiction and control of the medical councils for unprofessional conduct. My Honourable friend, Qazi Muhammad Ahmad Kazmi, is wonderstruck at the figure of 30,000 licentiates for the whole of India. But, Sir, considering the population of India, I would like to have 500,000 licentiates; and considering the large rural population of India, two standards of medical education are inevitable, the school standard and the University standard; and the financial exigencies of extending medical relief to the vast rural areas of India make it impracticable that the standard of education of the licentiates should be brought up to the level of the education of the medical graduates.

Sir, if this Bill be passed, I am sure that the reciprocity between Great Britain and India will again be interrupted by the refusal of the General Medical Council to recognise the medical degrees of the Indian Universities. Sir, I have not done anything which may cast a reflection on the licentiates. I have laid the whole case before this Honourable House—I have extenuated nothing and I have exaggerated nothing. I am strongly of opinion that no useful purpose will be served by referring this Bill to a Select Committee. Sir, I oppose the Bill.

Mr. Lalchand Navalrai: Sir, I emphatically differ from the opinion of my Honourable friend who spoke just now. I wholeheartedly support this Bill and I think it is a Bill which must go to the Select Committee. At present we have one class of medical practitioners called licentiates and the other called graduates, or M.B.B.S. It is true that in the provinces there are medical councils and those councils are financed by the Provincial Governments and are under the control of Provincial Governments, whereas on the other side there are colleges where these graduates are trained and given education. They are also financed by the Provincial Governments. There is only the question of their control. In their case the control is in the hands of the Indian Medical Council. What is proposed by this Bill is that the graduates and the licentiates should be brought on the same list. There was a time, no doubt, when these licentiates used to get lesser education and practice than graduates in the colleges but now we find that they are getting the same education and training, the same practice and they are more or less on the same level, so far as education is concerned. In our Sind, there is a medical school where formerly they used to get education for three years. They increased it to 4 years and later on to five years, whereas in the colleges, the education given to the graduates is for six years. There is only that difference but they are being trained in the same manner and to the same extent. They are being given education in surgical cases in the same way as the graduates get and then we find that, more or less, there is no difference with regard to their qualifications. Now, only one year more puts these

4 P. M. graduates above these licentiates and, therefore, they do not want to associate with them. But the House knows that these licentiates are more popular and are more useful to the public. Besides, the number of licentiates is very large now and the graduates are not so many in number. So, if these licentiates are made discontented and they are put on a lower level, then I do not think it will be for the good of the country. Therefore, time has arrived when they should be brought on the same level with the graduates. Even the Government recognises this nowadays. Are they not taking these licentiates for war and giving them commissions? They are giving advertisements for them and they are asking the Provincial Governments to canvass them for the war. And yet they are telling them now on the floor of this House that they are not going to put them on the same level as the graduates. That is not fair to them. I submit that so far as the qualifications of these licentiates are concerned there is not much difference in the qualifications of the graduates and the licentiates. When both the colleges and the schools are being

[Mr. Lalchand Navalrai.]

financed by the Provincial Governments, why should there be any difficulty for both the classes being placed on the list of the All-India Medical Council?

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

Of course, so far as the General Medical Council is concerned, there were obstacles. But if we agree to do certain things which the General Medical Council in England wants us to do to their own advantage, we will be showing our weakness. In that case, the Indian Government should be strong and they should say that in their opinion the qualifications of the licentiates and the graduates are virtually equal. On the contrary, they should plead for these licentiates and say that they are more competent than these graduates who come out from the colleges. We should not fear that, because we are now going to put these licentiates on the list, the General Medical Council in England will create some trouble. Let them create trouble. We will also treat them in the same manner as they would treat us. Therefore, we should not be frightened by them at all.

Then, Sir, as to the competency. We know that in India there are licentiates who are more competent than these graduates. I will mention one example. Dr. Mathra Das is an eye specialist. He is a licentiate. Is he not more competent and more popular than the graduates who are also eye specialists? He is considered in all respects to be more qualified than the other medical specialists. In the like manner we have in every province licentiates who have shown brilliant record and there is no reason why they should be kept lower down. I have seen these licentiates being put in charge as Civil Surgeons. Even in Sind, some of them have risen to the grade of Civil Surgeons.

Then, Sir, as regards the control. As I understood the Honourable Secretary, Department of Education, Health and Lands, he put a question that if there is a control, it will be a dual control—one control would be of the province and the other would be of the Indian Medical Council. What are the difficulties in that?

Mr. J. D. Tyson: I did not say that at all. The Honourable Member is putting something into my mouth that I did not say.

Mr. Lalchand Navalrai: I think the Honourable Member put a question to that effect.

Mr. J. D. Tyson: I did not use the phrase 'dual control'. Mr. Kazmi talked about the dual control.

Mr. Lalchand Navalrai: Then, I would submit that if the Provincial Councils have a control over these licentiates and if the Indian Medical Council were also to keep a control over them because they will be on their list, there is nothing wrong in it. Is not there a dual control of a Provincial Government and also of the Central Government on some subjects? Therefore, on this subject also let there be a dual control. There is nothing harmful in that at all; there is nothing deterrent.

Then, Sir, I find even the Medical Council of India have unanimously passed the Resolution of October, 1940, in which they recommended to the Government of India to legislate so as to recognise the qualifications of the licentiates. Thus the Indian Medical Council have agreed and are willing to take them on their list. Then, why should there be any obstruction about it. Therefore, if you consider this question from the point of view of qualification or competency or popularity, and when both are being financed by the Provincial Governments we should not lag behind to help them. All that these licentiates want is to put them on the same level. I do not see any reason to discourage them especially in these days of war, when such a step will be very detrimental to the war effort. If you are not prepared to refer this Bill to the Select Committee and kill it at this stage, you will be simply discouraging these licentiates who are an asset to you at this time. I think at this time you should encourage them rather than discourage them.

Maulana Zafar Ali Khan (East Central Punjab: Muhammadan): You want it to be a temporary measure.

Mr. Lalchand Navarai: I do not want it to be a temporary measure but at the present moment they are giving temporary commissions even to the graduates. They have made some difference but it is not a very substantial one. The difference is this that the commission which is being given to the graduates is called the I. M. S. and the one which is given to the Licentiates is called the I.M.D. I do not think there is very much difference. So far as pay is concerned, even these graduates, the M.B., B.S.'s, are some times accepting Rs. 70 or Rs. 80 and the licentiates also get the same amount.

Then, Sir, what the Honourable the Mover of this Bill wants is that in the Indian Medical Council Act, section 3, there should be an amendment. It reads:

"The Central Government shall cause to be constituted a Council consisting of the following members, namely:

One member from each Governor's province to be nominated by the Central Government;"

That is already being done—

"one member from each British Indian University to be elected by the members of the Senate of the University or in the case of the University of Lucknow, the Court, . . . from amongst the members of the medical faculty of the university."

So far as they are graduates—

"one member from each province where a Provincial Medical Register is maintained to be elected from amongst themselves by persons enrolled on the Register who possess. . ."

Now, these are the words which my Honourable friend wants to be changed or rather to be added to.

Mr. President (The Honourable Sir Abdur Rahim): What the Honourable Member is reading is in the Bill itself.

Mr. Lalchand Navarai: I want to say:

"who possess medical qualifications granted by a British Indian University;"

Now, it is an addition to these words which is being asked for. There should be not only university graduates but also the licentiates should be included in this sentence. At present there are four members to be nominated by the Central Government and what the amendment asks for is that there should be six and out of those six there should be three licentiates. I hope I have sufficiently shown to the House that this Bill is one which is very important from the point of view of the medical practitioners and I trust it will be sent to the Select Committee.

Mr. J. D. Tyson: Sir, I rise to oppose this motion, but I do so with very great regret and not out of any lack of sympathy for the admirable body of men and women whom this Bill seeks to benefit. In Government service, in war and peace, the licentiates have an excellent record. Outside Government service, they deservedly enjoy the confidence of a large part of our population. I am not prepared necessarily to subscribe to my Honourable friend's argument that because there are two licentiates to every graduate they must serve twice as many members of the population as graduates do but I do not dispute that they enjoy the confidence of a large part of our population and that the licentiates as a body have produced many outstanding practitioners. If I believed that the Bill before the House was likely to improve the status and lot of the licentiates I would not have raised my voice against it, but I am afraid that an approach on the lines of this Bill will not achieve what Mr. Kazmi, I believe wishes to achieve or what I would wish and I think what the whole House would wish on behalf of the licentiates. I shall not take as my Honourable friend did an hour and three quarters to deal with the Bill. I hope to show in much less time why it should be rejected. But I do wish at the very outset to make it perfectly clear that it is the Bill that I am criticizing and not in any way the very deserving body of practitioners whom the Bill is intended to benefit.

Sir, I shall not follow my Honourable friend in discussing the history of the parent Act. Honourable Members who are interested in its history

[Mr. J. D. Tyson.]

will find some history and a good deal of wild surmise in the debates of the Legislative Assembly in 1933. But by my Honourable friend's own showing the squabble at that time was really between the General Medical Council and the colleges in India and the General Medical Council was not interested, I imagine, in the licentiates. This Bill is to promote the interest of the licentiates, so I will not follow my Honourable friend there.

I propose to ask the House to look at the Bill from two angles. First, what is its scope and what does it actually seek to do? And then with what aims has it been promoted: are they aims which this House ought to support and is the Bill likely to facilitate the attainment of those aims? First of all what is it that the Bill seeks to do? I must, I am afraid, explain this to the House because my Honourable friend has mentioned so many things as aims of his which the Bill does not on the face of it seek to do. I think I must show what the Bill does seek to do and what it does not seek to do. In the first place, the Bill does not purport to provide for an All-India Register. A great deal of my Honourable friend's advocacy of the Bill this morning seemed to proceed on the basis that an All-India Register was a good thing: that the Indian Medical Council had blessed the idea and that that many benefits would accrue from having an All-India Register to include the names of "this vast number of people who handle human life". Honourable Members on reading his Bill will be surprised to find that there is nothing in the Bill about an All-India Register. Without going into details I might say, quite briefly, that what his Bill does seek to do is first to obtain for licentiates' representation on the All-India Medical Council itself and secondly, to accord recognition to the qualifications awarded by the medical schools in India by including them in Schedule I of the Act. That is, Sir, all that the Bill actually will do if it is passed in its present form. Representation on the Indian Medical Council would come in, as my Honourable friend, Mr. Kazmi, has explained to us, in two ways—first, by direct nomination by the Governor General in Council,—I think it should be "the Central Government". I am afraid, he forgot to mention to the House, when he said that the Governor General in Council would not choose people who would "let down" the standard set by the Indian Medical Council,—I am afraid, he did not bring to the notice of the House that the three licentiates who would be nominated by the Governor General in Council (or the Central Government) would be licentiates who would be "elected by the All-India Medical Licentiates Association". The Central Government, or the Governor General, would not have any discretion in the matter. I have nothing against the All-India Medical Licentiates Association. It is a body for whom I have a great respect, but I understand it does not represent more than about one third of the licentiates and I am not quite sure why it should be allowed to have a monopoly in electing the three direct representatives of the licentiates.

Qazi Muhammad Ahmad Kazmi: Does the Honourable Member agree to allow the whole body of the licentiates to elect their representatives?

Mr. J. D. Tyson: I think that might meet the objection that has been raised by some parties during circulation of the Bill but I can deal with the Bill only as it has been placed before the House. Secondly, licentiates may come in by being allowed to vote and to stand for elections for the nine seats of the Council which are allocated at present to those who hold recognized qualifications of the Indian Universities and have their names on the Provincial Register.

The House will recollect that, in most of the Provinces, the licentiates outnumber those with qualifications at present recognised by about two to one. It may vary in the different provinces, but in India as a whole it is about 2:1. It would follow, therefore, if this proposal were made law, that the licentiates could, if they chose,—I do not say they would, but they *could*—return all the nine persons to represent what I might call the Provincial Registers. If that were to happen, there would be three plus nine, that is 12 licentiates in a body of 33 or 34. There would be 12 licentiates as against

seven other elected representatives or it may be eight from the Universities that have faculties. So, it is clear that this provision would make it possible for the licentiates to outnumber at all events the elected element of the Council. No doubt it may be said that the balance would be restored from among the nominated Members, four nominated by the Central Government on its own behalf and eleven nominated by the Central Government on behalf of the Provinces. But considering that the primary object for which the Council exists is the establishment and maintenance of a standard of qualification in medicine which will form the basis for reciprocal arrangements with other countries, I think one must ask how the presence of probably 12 or even more licentiates in a body of 34 is going to help towards the attainment of that object or to assist the Council in the discharge of its responsibilities of negotiating with the Medical Councils of other countries. As one Government has remarked in that connection, the Government of the United Provinces:

"On principle also no Licentiate, however experienced he may be, should share in fixing the standards of medical degrees. If Licentiates are allowed to become members of the Medical Council of India either by election or by nomination, it is bound to result in a lowering of the standards all round with the resultant risk of affecting reciprocal arrangements with other countries."

The Inspector General of Civil Hospitals of the same Province has explained this view a little further and said:

"Presumably the members of this body, (the Indian Medical Council) should possess themselves the necessary standard to enable them to formulate curricula and courses suitable to the same. It does not appear to me logical now to introduce into this body members with a lower standard of education as, if this is done, it would appear to me that the object of establishing the Indian Medical Council would be to a large extent nullified."

S, Sir, the object of the Act being what it is, the introduction of licentiates into the Council is not calculated to promote that object.

In passing I might say, on the question of reciprocity, that some Honourable Members may not value reciprocity. I have seen the line taken—how many of our members want to go overseas and practise? It does not however end there. Apart from the question of self-respect, though that is a serious matter, and apart from the question of a certain number of our doctors practising overseas, there is the question of post-graduate study. Science is no respecter of international boundaries and we do get, in all countries at different times, great practitioners, great medical scientists arising, who develop some new phase of medical practice or medical science, and it is to the interest of India that our doctors should be able to go overseas and study in those places wherever they may be. The value to India is not to be measured by what one doctor may himself gain by going overseas, but by what we may gain here by that man bringing back knowledge that he has acquired: and it would be a very regrettable thing, I feel, from that point of view, if anything were done to affect the reciprocity. That is all I have to say as regards those parts of the Bill before us which affect representation of Licentiates on the Council.

The other main proposal of the Bill seeks to add to the list of Indian qualifications recognised by the Indian Medical Council the Licentiate qualifications of all the medical schools in British India. Now, Sir, this is a very serious proposal and one which I hope the House will long hesitate to accept. Some years ago, the then Director General, Sir Cuthbert Sprawson, in a report that has been published said:

"There are 27 medical schools in India. . . . No one can have visited many of them without being struck by the different standard amongst them, by the variations in buildings, equipment and staff":

And he went on to say that there was as much difference between the best and the worst medical school as there was between a good medical school and a Medical College affiliated to a University. My Honourable friend, Mr. Lalchand Navalrai, not only argued from the particular to the general as regards individual licentiates—he mentioned one well-known eye specialist—but he also, I am afraid, did the same as regards the schools themselves. Though he did not at first know, I think, that there was a medical school

[Mr. J. D. Tyson.]

in Sind, he later assumed that that school was a good one and from this he went on to argue that because the curriculum in Sind was a high one, therefore, all the medical schools were to be regarded as being as good as colleges and their education as being as good as college education. I hope I have not misunderstood him.

Mr. Lalchand Navarai: I said I knew that there was a school there and in that school, education was imparted for five years. I, therefore, hoped that in other Provinces also the curriculum may be the same.

Mr. J. D. Tyson: It "may be the same", but it is not, I am afraid.

Mr. Lalchand Navarai: That makes all the difference.

Mr. J. D. Tyson: Sir, Cuthbert Sprawson to whom I was referring drew up a list of standards, not very exacting standards, about equipment and clinical requirements in the medical schools in 1935 and on that basis statistics were collected and it was shown that not one out of 27 then existing schools completely satisfied his seven standards and no less than 14 were deficient in all the seven standards.

Mr. Lalchand Navarai: They can be improved by Local Governments.

Mr. J. D. Tyson: My point is there are great differences and this Bill treats them as if they were all the same. The argument has been on the basis that they were all the same. There are only 21 schools at present and I do not think that any one who has seen any considerable number of them would deny that, whether the standards have gone up or gone down since Sir Cuthbert Sprawson's day, what he said about variation in standard is as true today as it was then. For example, six of the existing schools are able to insist on Intermediate Science as the minimum qualification for admission: one admits Intermediate Science or Intermediate Arts; but the remaining 14 admit Matriculates. Again, the period of scientific study varies from 5½ years, I believe, in one case, in the cases in which admission is on the "intermediate" qualification, to four years only in the case of those who give admission to matriculates. Sir, to a layman it does seem that there is here a variation sufficient to warrant us in hesitating about lumping together all these different qualifications as if they were all of the same value, or all of a value sufficient to justify including them just as they stand in the All-India list of recognised qualifications. Honourable Members will observe that the Bill before us does not even propose to give the Indian Medical Council the right to prescribe a standard and then to test each of the individual qualifications by that standard.

Honourable Members will remember that the Indian Medical Council Act itself recognized straight off certain Graduate qualifications but it held over three University qualifications—Patna, Vizagapatam and Rangoon at that time—which had not up till then been recognized by the General Medical Council, and it made a special provision in the Act whereby these three faculties could apply for recognition, and the Indian Medical Council was to test them, inspect them and advise Government as to whether they should be recognized or not. But I am afraid, that this Bill includes no such provision. We have got to put them all into the Schedule straight away as though they were, if not of equal value, at all events of sufficient value to be put in without any further test. That is what the Bill proposes to do actually: these two things—to put all the qualifications of the Medical Schools straight into the schedule; and to admit a certain number of licentiates to the Council itself.

Now, Sir, what are the real objects behind these proposals? Sir, I think that they are two, if I have followed my Honourable friend aright: One, to establish a uniform minimum standard of medical education; and, secondly, to remove what is felt to be an injustice to the licentiates, an injustice that, according to my friend, was perpetrated in 1933.

To take the first,—establishing a uniform system of medical education—the Act which he seeks to amend was passed to establish a uniform minimum standard of *higher* medical education and this was, of course, primarily with a view to securing reciprocity for our doctors with other countries, and that is

the effect of the Act. I doubt if the Act has any other real effect than that, maintaining a standard with which we may bargain for reciprocity. It is probably nowhere seriously suggested that our licentiates on their present level will be recognized abroad. That being so, I submit that the establishment of a uniform minimum standard of medical education in medical schools by the Indian Medical Council will not benefit the licentiates either abroad, because their qualifications, I am afraid, will not be recognized at present abroad, nor in India either.

I have already dealt with recognition abroad. I do not think that, taking a long view, the inclusion of these qualifications in the schedule will benefit the licentiates in India itself if they are put into the schedule in the wholesale way proposed in this Bill. These qualifications are already recognized in the provinces for the purpose of professional practice. The presence in the schedule of the qualifications at present recognized by Schedule I of the Act does not in itself confer any right to practice. That is only acquired by registration on the provincial register. I do not think that recognition of these qualifications in the first schedule of the Act will give the licentiate anything that he has not got already in India. He practises already by virtue of his registration in the provinces.

I think the Mover's object is, in some undefined way, to improve the standard of medical education in schools by getting it brought under the influence or, as he said, the "control" of the Indian Medical Council. The improvement of the standard of medical education and the establishment of a uniform minimum standard, if this can be done at a sufficiently high level, are undoubtedly very desirable objectives, but how does the Bill propose to achieve them? It proposes to achieve them by lowering it to that of the most inefficient Medical School. I think, Sir, that though my friend took exception to the word when used by some Provincial Government, I think this would be an extremely "retrograde" step. Does India wish to have a lower standard than other countries? I am sure that the licentiates themselves do not wish to have a lower standard stereotyped. At the Conference, to which my Honourable friend has referred, on Medical School Education in 1938, they favoured upgrading of the medical schools, not degrading standards. Merely as a matter of procedure, I am afraid, you do not go the right way to improve the standard of an institution if you start by accepting existing standards. By giving central recognition to the qualifications of the Schools as they are, aren't we tilting the balance in favour of producing medical men of the existing licentiate standard instead of, what I think we really want, encouraging them to go for higher qualifications?

The other ostensible object of the Bill is to remove what is felt to be an injustice to the Medical School Licentiates. Sir, the valuable services rendered by the licentiates to the community at large are not in question, but it does not derogate in any way from those services to say that there is now a widespread feeling, shared by the licentiates themselves, that, quite apart from the question of reciprocity, the minimum standard for admission to medical study and the minimum standard of specialised training should be not lower than those at present recognized by the Indian Medical Council. That was the effect of the resolutions passed at the Conference on Medical School Education held in New Delhi on the 7th and 8th November, 1938, and attended by representatives of the All-India Medical Licentiate Association. They passed unanimously eight resolutions, and I will only take the time of the House to read three of them:

"1. This Conference recommends that one uniform minimum standard of training and qualification for practitioners of modern scientific medicine should be established throughout India at an early date and that this standard should be such as shall satisfy the requirements laid down by the Medical Council of India.

2. In accordance with Resolution No. 1, this Conference recommends that the standards of equipment and training in medical schools should be raised to those required for recognition by the Medical Council of India."

[Mr. J. D. Tyson.]

And the other one that I want to read is No. 5:

"5. This Conference is of opinion that, wherever it may be necessary to continue a medical qualification of the licentiate standard for some further period, steps should be taken to introduce the uniform minimum standard of general education laid down by the Medical Council of India as a preliminary qualification for entrance to medical schools."

I do not wish to follow my Honourable friend, Mr. Kazmi, into a discussion about the relative merits of the General Medical Council's minimum qualifications and the minimum qualifications of the Medical School or, as it now is, Medical College at Agra. I do not feel qualified to discuss the General Medical Council's minimum qualifications, but this I would like to say,—that there is absolutely nothing in the present Indian Medical Council Act to prevent any Medical School from applying for and obtaining recognition. There is nothing in the Indian Medical Council Act which says that only University qualifications shall be recognized. I do not know whether Honourable Members have got the Act with them or not, but section 11(2) says that:

"Any Medical institution in British India which grants a medical qualification not already included in the first schedule may apply to have such qualification recognised."

Now, Sir, if these qualifications are all that, to use the words of the song, "they are cracked up to be" by my Honourable friend, Mr. Lalchand Navalrai, why does he feel it so necessary that they should be centrally controlled, and graded up; and, secondly, why have these people not applied for recognition already? Sir, I am afraid it is not a fact that the licentiates as a whole enjoy the same educational advantages as the graduates, either in their general education, though some schools have now insisted on a high preliminary standard of general education, or in the actual teaching and training that can be given to them, or in the duration of the course.

I do submit that we should not let our sympathy for the licentiates lead us into a course of action which may make more difficult the attainment of the object of raising the qualifications to the standard approved by the Indian Medical Council. The arguments adduced in favour of the Bill here and in circulation seem to assume that recognition by the Indian Medical Council, through the Legislature's putting these qualifications into the schedule, will ensure the abolition or the upgrading of the existing schools by 1947 as proposed by the Indian Medical Council in the resolution which has been quoted. I am afraid, this does not at all follow. The conferment of an easy recognition on these medical school qualifications would probably, I think, have quite the opposite effect. The Indian Medical Council Act does not empower the Council to compel Provincial Governments to convert their medical schools into colleges or raise their standards to those required by the Council. Nor again, would the withdrawal of recognition accorded in this way by the Legislature be followed by any serious consequences either to the institution itself or to the individual whose qualification was obtained there. The individual would still go on practising by virtue of his registration on the provincial register. As regards the institution, as I pointed out this morning, the Bill gives no power to the Indian Medical Council to coerce a province to take action against an institution. These schools are provincial institutions, or if they are independent institutions, they are a "provincial subject".

The problem is a difficult one, Sir, and the present, position, I grant, is somewhat anomalous, but I believe that upgrading is the only real remedy, and this can only be done with the co-operation of the Provincial Governments, whose institutions, in most cases, these medical schools are. These Governments do not favour the Bill now before us. Three Provinces,—Sind, Assam and the North-West Frontier—I have not, like my friend, gone to Coorg—are opposed to the Bill. (A voice—"advanced Governments".) They may be advanced Governments, but it is perhaps significant that not one of the three Governments that has expressed its approval, has adduced any arguments in favour of the Bill. They have just said, 'We approve the provisions'. It may be that the provisions are so self-evident that they have not thought it necessary

to do so, but it took my Honourable friend an hour and three-quarters to explain the obvious advantages of his Bill this morning. The vast majority of the Governments who have strongly opposed the Bill have given their reasons for their opposition. I will not take the House through those reasons: my Honourable friend has done it himself; but I would like just to refer the House to the views of the Indian Medical Council itself. The Indian Medical Council begins by pointing out that in a Statement made by the All-India Medical Licentiate Association to the Indian Medical Council itself in 1941, the Licentiate made it clear that their discontent arose from two, shall I call them unfulfilled aspirations: one was to enjoy for the future the minimum standard of medical education at present laid down by the Council, and the second was to be registered with the graduates in the provincial registers and in an All-India register,—which incidentally my Honourable friend's Bill does not provide for. The Council then says:

"Mr. Kazmi's Bill neither provides for the improvement of medical education of Licentiate nor for any All-India register. On the other hand the Bill seeks to perpetuate the present educational standards of the L.M.P.'s."

And then a little lower down it says:

"It seeks to lower the minimum uniform standard for the whole of India to the level of that now obtaining in the case of the Licentiate."

And then, Sir, the Indian Medical Council finish:

"Therefore, we consider the present Bill as absolutely inadequate to allay the discontent among the licentiate, although it seems to give a temporary advantage to the licentiate. It is a politician's Bill and not of one who has the interest of medical education in this country at his heart. We cannot support the Bill."

These are not my words. I am not sure that I should be held to be "parliamentary" in referring to my friend as "a politician".

Dr. Sir Zia Uddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Whose opinion is that?

Mr. J. D. Tyson: The Indian Medical Council's. I do not think the Indian Medical Council meant it as a compliment but if he likes to take it as such so much the better. I hasten to say that I do not associate myself with the second phrase, "that it is a Bill not of one who has the interest of medical education in this country in his heart". I do not for a moment doubt my Honourable friend's sincere desire to serve the cause of medical education. I do not want to go into other opinions in detail, but the opinions of the Governments of the Punjab and Bombay, the opinion of the Bombay University, the Bombay Medical Union, the Bombay Branch of the Indian Medical Association and the Sind Medical Union, are all worth studying for the reasons they give for opposing this Bill: and for a really balanced and Judicial summing up of the case against the Bill I should like to refer to the opinion of my Honourable friend, Dewan Bahadur Lakshmanaswami Mudaliar, which has been adopted *in toto* by the Madras Government.

The Central Government have under consideration in consultation with Provincial Governments the recommendation of the Indian Medical Council referred to by my friend for an All-India Register and for an appeal to the Provinces to upgrade or abolish their schools by 1947. I think the two things clearly hang together and were intended by the Medical Council to hang together. The Indian Medical Council obviously took the view that if we can get rid of the medical schools by 1947 by getting them all abolished or upgraded, then let us recognise the licentiate who are already in practice, because they will be a wasting asset. My friend, I am afraid, has not provided for either of those things. He has not provided for upgrading the medical schools nor has he provided for the Central register. The majority of the Provincial Governments have accepted the principle of upgrading and some progress has been made. Madras has abolished its last medical school and the United Provinces has abolished its school in Agra. But it takes time and money and the advance is bound to be slow, especially in war time.

I will conclude by saying that, taking Mr. Kazmi's proposals as a whole, they seem to me to be a tribute rather to his heart than to his head, and I

[Mr. J. D. Tyson.]

would remind the House of one striking feature in the replies received from the Governments and many influential and important bodies, which is that those who support the measure do so for reasons which on examination will be found to be almost entirely sentimental and that the hard facts and the arguments seem, if I may say so, to be on the side of those who have advised against the Bill. Sir, I would ask the House to negative the motion to refer the Bill to a Select Committee.

Qazi Muhammad Ahmad Kazmi: Mr. President, I must thank the Honourable Member for the great sympathy that he has shown for the licentiates whose cause, I think, I was advocating. But at the same time I feel rather disappointed that though my learned friend has not probably been practising as a lawyer, he has entered into criticisms only for the sake of criticism, and he has placed no constructive proposals before the House. In spite of all his sympathy for the licentiates and in spite of the fact that he has criticised the Bill, he has not disclosed what the Government would like to see provided in the Bill, what every well-wisher of the licentiates would like to provide. What I have suggested does not fulfil that high ambition and, therefore, he says that the Bill must be rejected. That is a piece of logic which I am unable to follow or understand. They say that I have not provided for the All-India Medical Register. Are the Government prepared to have an All-India Medical Register? May I ask if they are prepared to have it?

Mr. J. D. Tyson: I said that we have it under consideration in consultation with the Provincial Governments. We have consulted Provincial Governments.

Qazi Muhammad Ahmad Kazmi: Consultation for ten years is already over and there will be consultation for another ten years before that consultation finishes. Since how long have you been consulting the Provincial Governments? In 1933, you brought the Bill. You suggested an All-India register. You passed an Act and still the consultation continues. When I started this Bill, consultation was started again and when the Bill is finished, consultation will start again. What is the result you have achieved. Mere lip sympathy would not be sufficient to console the hearts of people who are suffering.

It has been admitted that the Bill has the definite object of improving the status of the licentiates and I am sorry to find that in spite of all I have said my learned friend did not hesitate to say that the Bill was a retrograde one. I fail to see how the handing over of the standard of education from the Provincial Governments to the All India Medical Council can be called a retrograde measure, when it is recognised that the consistent demand of the licentiates is that the standard must be raised. You just want to give the dog a bad name and hang it. That policy cannot have the approval of this House. Have the Government got any proposals in their mind? If there are any defects in the Bill they can be removed in the Select Committee. If the Government have any constructive proposals, they can bring in a Bill bringing the education of the licentiates to the level of the degree colleges. Nothing of the kind is being done. They say that they have the fullest sympathy but the aspirations of the licentiates cannot be achieved by this Bill. I would drop this Bill if Government are prepared to make a declaration that constructive proposals more beneficial to the licentiates are in their mind. No such promise is forthcoming. Unfortunately the idea is to exploit these licentiates and not allow them to rise to a higher level. The Central Government blames the Provincial Governments and the Provincial Governments blame the Central Government and this dispute goes on. As to the criticism of my friend about reciprocity, I have tried to point out that even this Medical Council has recognised qualifications which were of a lower standard than that of licentiates and according to the showing of the Honourable Member they were such as had to be deleted after a period of ten years' experience.

Mr. President (The Honourable Sir Abdur Rahim): If the Honourable Member wishes to finish his speech to-day, he has only three minutes. He cannot go on after five.

Qazi Muhammad Ahmad Kazmi: I will finish now. I will conclude by saying that Government should bring forward their own Bill before this House for the improvement of the condition of the licentiates.

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

"That the Bill further to amend the Indian Medical Council Act, 1933, be referred to a Select Committee consisting of the Honourable Sir Sultan Ahmed, Mr. J. D. Tyson, Dr. T. G. Spear, Dr. Sir Ratanji Dinshaw Dalal, Mr. Govind V. Deshmukh, Sir Syed Raza Ali, Sir Muhammad Yamin Khan, Mr. Lalchand Navalrai, Sardar Sant Singh, Mr. K. C. Neogy, Raja T. Manavedan, Maulvi Abdur Rasheed Chaudhury, Mr. E. L. C. Gwilt, Mr. Amarendra Nath Chattopadhyaya and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was negatived.

ELECTION OF MEMBERS TO THE STANDING COMMITTEE FOR THE COMMERCE DEPARTMENT.

Mr. President (The Honourable Sir Abdur Rahim) : I have to inform the Assembly that upto 12 Noon to-day, the time fixed for receiving nominations for the Standing Committee for the Department of Commerce only three nominations were received. As the number of candidates is less than the number of vacancies to be filled, I extend the time for receiving nominations upto 12 Noon on Monday, the 29th March, 1943. The Notice Office will remain open to receive nominations upto 12 Noon on Monday, the 29th March, 1943, and the election, if necessary, will take place on Wednesday, the 31st March, 1943. The election, which will be held in the Assistant Secretary's room in the Council House between the hours of 10-30 A.M. and 1 P.M. will be conducted in accordance with the principle of proportional representation by means of the single transferable vote.

The Assembly then adjourned till Eleven of the Clock on Monday, the 29th March, 1943.