

# LEGISLATIVE ASSEMBLY DEBATES

MONDAY, 29th MARCH, 1943

## OFFICIAL REPORT



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# LEGISLATIVE ASSEMBLY

Monday, 29th 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.

## MEMBER SWORN:

Mr. Geoffrey Stephen Bozman, C.I.E., I.C.S., M.L.A. (Secretary, Department of Indians Overseas).

## STARRED QUESTIONS AND ANSWERS.

### (a) ORAL ANSWERS.

#### MUSLIM AND NON-MUSLIM APPRENTICE PERMANENT WAY INSPECTORS ON BENGAL AND ASSAM RAILWAY.

390. \*Mr. Muhammad Nauman (on behalf of Mr. Muhammad Ahsan): (a) Will the Honourable Member for Railways be pleased to state the number of Muslims and non-Muslims recruited as Apprentice Permanent Way Inspectors on the Bengal and Assam Railway during the period from January 1935 to December 1942?

(b) Is it a fact that the qualifications for Apprentice Permanent Way Inspectors laid down in paragraph 37 of the Rules for Recruitment and Training of Non-Gazetted Staff on the State-managed Railways are such that Muslims are always available for recruitment in that category?

(c) Is it a fact that the non-Muslim apprentices recruited in the year 1935 and who completed their training in the year 1938 were suitably employed in preference to Muslims who were kept out of permanent employment on the plea of non-availability of vacancies?

(d) If the reply to part (c) be in the negative, does the Honourable Member propose to state the dates of the permanent appointment of Muslim and non-Muslim apprentices after the completion of their training in the year 1938?

The Honourable Sir Edward Benthall: (a), (c) and (d). I have called for such information as may be readily available and a further reply will be laid on the table of the House in due course.

(b) The qualifications are such as impose no special disability on any community.

#### NON-OBSERVANCE OF MUSLIM QUOTA OF ASSISTANT PERMANENT WAY INSPECTORS ON THE BENGAL AND ASSAM RAILWAY.

391. \*Mr. Muhammad Nauman (on behalf of Mr. Muhammad Ahsan): (a) Is the Honourable Member for Railways aware of the fact that the temporary and permanent vacancies of Assistant Permanent Way Inspectors and Sub-Permanent Way Inspectors during the period from January 1935 to December 1942, on the Bengal and Assam Railway were filled up by Head Mates, Mates and Mistries?

(b) Is it a fact that the posts of Head Mates, Mates and Mistries on the Bengal and Assam Railway are categorised as non-Subordinate posts?

(c) Is it a fact that the promotion of Head Mates, Mates and Mistries to the posts of Assistant Permanent Way Inspectors and Sub-Permanent Way Inspectors constitutes direct recruitment for the purpose of communal quota?

(d) Is it a fact that the Muslim quota was not observed in filling up the posts of Assistant Permanent Way Inspectors and Sub-Permanent Way Inspectors?

The Honourable Sir Edward Benthall: I have called for information and a reply will be laid on the table of the House in due course.

#### PAUCITY OF MUSLIM HEAD MATES, ETC., ON THE BENGAL AND ASSAM RAILWAY.

392. \*Mr. Muhammad Nauman (on behalf of Mr. Muhammad Ahsan): (a) Is the Honourable Member for Railways aware of the fact that on the Bengal and Assam Railway Muslim representation has never been raised when filling up vacancies of Head Mates, Mates and Mistries (Engineering Department) during the period from January 1935 to December 1942?



(b) If the reply to part (a) be in the negative, does the Honourable Member propose to state the number of Muslims and non-Muslims in these categories of service in the years 1935 and 1942 comparatively and is there any increase of Muslims in them?

**The Honourable Sir Edward Benthall:** (a) I am unable to understand what the Honourable Member means by "raised" but I am informed that these posts are filled by promotion and, therefore, the reservation for communities in recruitment to inferior posts does not apply to the filling up of these posts.

(b) I have no information and cannot undertake to collect it under present conditions.

#### PAUCITY OF MUSLIMS IN CERTAIN POSTS OF BENGAL AND ASSAM RAILWAY.

**393. \*Mr. Muhammad Nauman** (on behalf of **Mr. Muhammad Ahsan**): (a) Is the Honourable Member for Railways aware of the fact that on the Bengal and Assam Railway Muslims have been recruited short of their quota in the following posts during the period from 1935 to 1942 and the deficiency in their quota has been made up by the appointment of Tally Clerks or Shunters in the scales of Rs. 20—1—28 and 23—2—27:

1. Draftsmen (Mechanical and Engineering), 2. Assistant Draftsmen (Mechanical and Engineering), 3. Tracers, 4. Inspector of Works, 5. Assistant Inspector of Works, 6. Works Mistries, 7. Doctors, 8. Nurses, 9. Journeymen, 10. Chargemen, 11. Boiler Inspectors, 12. Electricians, 13 Train Examiners, 14. Stenographers, 15. Typists and 16. Assistant Station Masters?

(b) If the reply to (a) be in the negative, does the Honourable Member propose to state the specific posts where the deficiency in the Muslim quota for the above mentioned posts has been made up?

**The Honourable Sir Edward Benthall:** (a) The Railway has experienced difficulty in obtaining suitably qualified Muslims for filling vacancies in technical grades and has had to make up the deficiency thus caused by extra recruitment in non-technical grades like clerks and tally clerks. Shunters and Assistant Station Masters are grades filled by promotion.

(b) Does not arise.

**Mr. Muhammad Nauman:** In filling up posts for Muslims, in case of non-technical posts, do they take into consideration the amount of salaries and the difference between the two?

**The Honourable Sir Edward Benthall:** It is not a question of salaries, it is a question of getting men with suitable qualifications.

**Mr. Muhammad Nauman:** Am I to understand that it only means the number was made right on both sides without consideration of the salaries?

**The Honourable Sir Edward Benthall:** It was certainly considered; but if the technical candidates are not available, obviously the posts cannot be filled.

**Sardar Sant Singh:** Will the Honourable Member consider the advisability of communal representation on the salary basis instead of percentage basis?

**The Honourable Sir Edward Benthall:** No, Sir.

**Maulvi Syed Murtuza Sahib Bahadur:** May I know if no technically qualified Muslims are available, will the department be pleased to refer such cases to the Muslim League so that they may send qualified men?

**The Honourable Sir Edward Benthall:** No. As a matter of fact, however, very great care has already been taken in applying to important Advisory Boards and to Muslim representatives in order to get candidates; but difficulty has been found in spite of that.

**Maulvi Muhammad Abdul Ghani:** Will it be advertised in the *Dawn* which is generally read by the Mussalmans all over India?

**The Honourable Sir Edward Benthall:** Numerous advertisements have been placed, but, in spite of that, there has been difficulty in getting qualified Muslims.

**Mr. Muhammad Nauman:** May I inform the Honourable Member that none appeared in Bihar so far as vernacular papers were concerned?

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

**NON-OPERATION OF SCHEME FOR TRAINING MUSLIMS FOR POSTS OF DRAFTSMEN,  
ETC., ON BENGAL AND ASSAM RAILWAY.**

**394. \*Mr. Muhammad Nauman** (on behalf of **Mr. Muhammad Ahsan**): (a) Is the Honourable Member for Railways aware of the fact that the Bengal and Assam Railway announced their intention of training Muslims for the posts of Draftsmen, Assistant Draftsmen, and Tracers (Civil and Mechanical Engineering) in the year 1940, as depicted in the DeSouza Report on the representation of minority communities on Railways?

(b) Is it a fact that no such scheme has so far been put into operation on the Bengal and Assam Railway?

(c) Is it a fact that Muslims who are qualified overseers have been compelled to work as Assistant Draftsmen and Tracers?

(d) If the reply to part (c) be in the negative, does the Honourable Member propose to state the names and qualifications of Muslims in these posts on the Bengal and Assam Railway?

**The Honourable Sir Edward Benthall:** I have called for information and a reply will be laid on the table of the House in due course.

**FILLING OF VACANCIES IN THE GENERAL POST OFFICE, DELHI.**

**395. \*Qazi Muhammad Ahmad Kazmi:** (a) Will the Secretary of the Posts and Air Department please state how many vacancies for the General Post Office, Delhi, were announced during the last five years, separately?

(b) How many vacancies were actually in existence during the said period?

(c) How many vacancies were filled in by successful candidates?

(d) How many vacancies were filled in by unqualified persons?

(e) For how long have these unqualified persons been working in such vacancies as temporary clerks?

(f) Have these temporary clerks been granted any increment for having performed service in the department for over a year or so? If not, why not?

(g) Why have these temporary clerks been not confirmed in the department if they possess the minimum qualifications, and when they are sure to be much more useful than the new entrants?

**Sir Gurunath Bewoor:** (a) to (d). A statement is laid on the table.

(e) There are at present 86 unqualified persons employed as temporary clerks. Their periods of temporary service vary from less than one month to five years.

(f) No. Under the departmental rules no increment is admissible to clerks until their confirmation.

(g) Recruitment to the clerical cadres in the Posts and Telegraphs Department is made through an open competitive examination. Only approved candidates, recruited through the examination are eligible for permanent appointment.

*Statement.*

Year.	Number of vacancies announced (permanent & temporary).	Number of actual vacancies (permanent & temporary).	Number of vacancies filled by approved candidates.	Number of temporary vacancies filled by unqualified candidates.
1	2	3	4	5
1938	19	38	12	17
1939	15	58	10	40
1940	43	55	11	39
1941	30	122	67	47
1942	Nil.	156	64	86
Total	..	429	164	229

**N.B. 1.**—The figures in Col. 3 are higher than those in Col. 2 on account of the large number of temporary appointments created after the announcement of the examination, to meet the abnormal increase of work due to the war.

**N.B. 2.**—There is a difference between the figures shown in Col. 3 and the totals of Cols. 4 and 5. This is due to the importation of men from other divisions or on account of vacancies having been left unfilled.

**Qazi Muhammad Ahmad Kazmi:** May I know if the case of people who have got some experience will be considered more favourably and will they be allowed to sit for the competitive examination?

**Sir Gurunath Bewoor:** There is no objection to their sitting for the open competitive examination if they fulfil the conditions which are laid down for appearing in that examination.

**GRIEVANCES OF TEMPORARY CLERKS IN THE GENERAL POST OFFICE, DELHI.**

**396. \*Qazi Muhammad Ahmad Kazmi:** (a) Will the Secretary of the Posts and Air Department please state if it is or it is not a fact that the temporary clerks in the General Post Office, Delhi, have made several representations to Government but they have been stopped by their officers?

(b) Do Government propose to consider the advisability of considering the case of these clerks at the time of new permanent appointments, and to give them preference over the equally qualified outsiders?

(c) Do Government propose to consider the advisability of allowing these clerks to sit for the qualifying or competitive examinations of the Department? If not, why not?

**Sir Gurunath Bewoor:** (a) Two representations were received and were withheld by the Director General under the rules.

(b) These clerks were appointed on a purely temporary basis on the distinct understanding that their temporary service would not render them eligible for permanent employment in the Department. As recruitment to permanent posts in the Department is made only through a competitive examination, these men are not eligible for permanent posts unless they qualify in that examination.

(c) Those of them who fulfil the conditions of eligibility for the competitive examination, can appear in that examination. Government are not prepared to allow others to appear in the examination.

**Qazi Muhammad Ahmad Kazmi:** With reference to part (b), the question of age is an important one. Will the Government consider the advisability of making some concession regarding age in the case of candidates who are already serving in the Department?

**Sir Gurunath Bewoor:** No, Sir. These people were employed on the distinct understanding that they would not be eligible for permanent employment and I may add for the Honourable Member's information that under recent orders of the Government no posts are going to be filled up on a permanent basis during the period of the war.

**DETERIORATION OF TELEPHONE SERVICE IN DELHI AND NEW DELHI.**

**397. \*Qazi Muhammad Ahmad Kazmi:** (a) Will the Secretary of the Posts and Air Department please state if it is or it is not a fact that the telephone service in Delhi and New Delhi has deteriorated since last year and that the public and business connections especially are not properly attended to by the department, and their complaints are not taken seriously?

(b) Is it or is it not a fact that there is a general complaint that there is dearth of competent men who can set the connections right, and the persons generally sent by the department to remove the defects are mere novices who cannot be of much use for the purpose?

(c) Do Government propose to consider the advisability of increasing the qualified staff consistently with the increase in the telephonic service so as to remove the complaints of the public?

**Sir Gurunath Bewoor:** (a) to (c). Government are aware that the working of the telephone system in Delhi is not as perfect and efficient as they wish it to be. The reasons for the imperfect working are—a considerable increase in the number of telephone connections, a heavy calling rate involving abnormal wear and tear of parts, difficulty in obtaining exchange equipment and spare parts to replace worn out parts, destruction of certain plant during the disturbances in the latter part of 1942, and the difficulty of providing sufficiently trained and experienced staff to meet the needs of the expanded system in Delhi. I understand that all complaints are generally promptly attended to and every effort is made to set connections right as early as practicable. Steps have also

been taken to increase the number of trained staff. I am, however, drawing the attention of the Director General of Posts and Telegraphs to this question in order that he may take such steps as may be practicable to improve the service.

**Qazi Muhammad Ahmad Kazmi:** Has the staff been proportionately increased according to the extension of service or has it not been proportionately increased?

**Sir Gurnath Bewoor:** The staff has been increased. I have here some figures which show that the number of Engineering Supervisors has been increased from 7 to 15, Inspectors from 6 to 7, Mechanics from 17 to 41, Linemen from 32 to 63. But the trouble is that we have not got trained men. It takes some months to train men in these technical works. We have opened new classes and we hope to get new trained men as soon as possible.

**Mr. Hooseinbhoj A. Laljee:** My Honourable friend's question was whether the staff has been increased in proportion to the extension of service. We do not know from the figures given by the Honourable Member whether the proportion of increase has been maintained?

**Sir Gurnath Bewoor:** Before the war we had 3,000 subscribers in Delhi, today there are 4,210 and the extensions which were 370 are now 842. We fully recognise the great increase and we are trying our best to increase the trained staff and more are being sanctioned.

#### DESIRABILITY OF GIVING RAILWAY ADVERTISEMENTS TO BIHAR VERNACULAR NEWSPAPERS.

**398. \*Maulvi Muhammad Abdul Ghani:** Will the Honourable the Railway Member please state:

(a) whether advertisements and other information concerning the East Indian, the Bengal Nagpur, the Bengal and Assam and the Oudh and Tirhut Railways which pass through the Bihar Province are published in the Provincial vernacular papers, like *Ittihad* of Patna, for the information of the travelling public, trading interests and others; if not, why not; and

(b) whether Government are aware that the Chief English daily papers—*Searchlight* and *Indian Nation*—have ceased publication? If so, what the present method is of giving the public necessary information about the said Railways?

**The Honourable Sir Edward Benthall:** (a) The answer to the first part of the question is in the affirmative, except in the case of the Bengal and Assam Railway which inserts general announcements and notices in the Calcutta vernacular papers which also have a circulation in the small portion of Bihar served by that Railway. The second part does not arise.

(b). Yes. The East Indian and the Bengal and Assam Railways publish information both in the Calcutta English and vernacular newspapers which, I am informed, have a large circulation in Bihar. The Oudh and Tirhut Railway publish information in the *Patna Daily News* and *Ittihad*, and the Bengal Nagpur Railway send advertisements to other suitable papers in Bihar when occasion arises. Information regarding train timings is, of course, available at all stations on these Railways.

**Mr. Muhammad Nauman:** Are they published in the vernacular newspapers of Patna in Bihar?

**The Honourable Sir Edward Benthall:** I understand so, Sir.

**Mr. Muhammad Nauman:** What are the names?

(No answer.)

**Maulana Zafar Ali Khan:** With reference to the answer to part (b) may I know whether *Aur-i-Jadid* of Bengal is on the list of newspapers in which these advertisements appear.

**The Honourable Sir Edward Benthall:** I am not sure; I require notice.

**Qazi Muhammad Ahmad Kazmi:** Will the Honourable Member please inform this House if there is any idea of publishing a regular time table? It used to be published before, but in the case of E. I. R. time table, it has not been published for the last six months.

**The Honourable Sir Edward Benthall:** I submit that that question does not arise. There has of course been great difficulty in publishing time tables owing

to the delayed timings which took place after the disturbances of last August. The timings are now constantly being altered in an improved direction and I should imagine, without certain knowledge of the position, that to produce a time table at the present moment will be useless because it may have to be revised again at a very early date.

**Maulvi Muhammad Abdul Ghani:** Will the Honourable Member be pleased to verify the reply given that the Calcutta vernacular papers are widely circulated in Bihar. I say that they are not.

**The Honourable Sir Edward Benthall:** I will verify that.

**Kunwar Hajee Ismael Alikhan:** Is it the intention of the Honourable Member to publish the revised time table very shortly?

**The Honourable Sir Edward Benthall:** I have already answered that question.

#### APPLICATION OF ESSENTIAL SERVICES (MAINTENANCE) ORDINANCE TO SHAHDARA SAHARANPUR LIGHT RAILWAY.

**399. \*Mr. Amarendra Nath Chattopadhyaya:** Will the Honourable Member for Railways please state:

(a) if the Shahdara (Delhi) Saharanpur Light Railway has been declared by the Central Government or by the Provincial Governments of Delhi and the United Provinces as an Essential Service to come within section 3 of Ordinance No. XI of 1941, dated New Delhi, the 20th December, 1941, and quote specific reference to such order or orders; and

(b) if the answer to (a) be in the negative, do Government propose to ascertain from the authorities concerned why this public utility concern has not been declared so?

**The Honourable Sir Edward Benthall:** (a) Yes, under Government of India (former) Defence Co-ordination Department Notification No. 1178-SM/41 of 29th December, 1941, published in the *Gazette of India Extraordinary*, dated 29th December, 1941, which extends the Ordinance to cover employment on Federal Railways.

(b) Does not arise.

#### COMPLAINTS AGAINST THE SUPERINTENDENT, SHAHDARA SAHARANPUR LIGHT RAILWAY.

**400. \*Mr. Amarendra Nath Chattopadhyaya:** (a) Will the Honourable Member for Railways please state if it is a fact that the Superintendent, Shahdara (Delhi) Saharanpur Light Railway, has been allowing the export of commodities worth lakhs of rupees controlled by Government in defiance of the Defence of India Act and in spite of the intervention by the North Western Railway and regardless of repeated protests by the police of Baghpat and Khakra, United Provinces?

(b) Is it a fact that the said Superintendent has illegally opened a Goods Booking Office at Baghpat wherefrom essential commodities controlled by Government are being freely booked?

(c) Is it a fact that the said Superintendent made special and exclusive arrangements by telegraphic orders, in preference to all other traffic, to complete the export of sugar from the Upper Doab Sugar Mills, Limited, Shamli, United Provinces, before the 30th June, 1942? If so, why were such arrangements necessary, and was sugar control effective from the 30th June, 1942?

(d) What action have the General Manager and the Managing Agents taken in connection with parts (a) to (c)?

(e) Do Government propose to take any action in connection with parts (a) to (d)? If not, why not?

**The Honourable Sir Edward Benthall:** (a) to (d). I have no information. I would add that questions concerning any alleged infringement of a control order issued under the Defence of India Rules should be put to the Department of Government promulgating such order.

(e) Does not arise.

## COMPLAINTS AGAINST THE SUPERINTENDENT, SHAHDARA SAHARANPUR LIGHT RAILWAY.

†401. \*Mr. Amarendra Nath Chattopadhyaya: Will the Honourable the Railway Member please state:

(a) if it is a fact that the Superintendent, Shahdara (Delhi) Saharanpur Light Railway, has been arbitrarily reducing the rates and freights of the important commodities against the repeated orders of the competent authorities,

(b) if it is a fact that the said Superintendent has been giving unreasonable and unauthorised advantage to the Upper Doab Sugar Mills, Limited, Shamli, United Provinces, in respect of the reduced freights for carriage of sugarcane and in allotments of wagons on the request of the mills; and

(c) if it is a fact that the said Superintendent has been causing undue and unreasonable harassment to the travelling public by detaining trains at the starting stations and *en route* for his personal convenience?

The Honourable Sir Edward Benthall: (a) I understand this is not a fact.

(b) and (c). As far as I am aware, no such complaints have been received by the Railway Board.

DESIRABILITY OF INCREASING THE ALLOWANCE OF THE *ex-DETENU* AGHA SYED ZAMAN SHAH.

402. \*Mr. Govind V. Deshmukh: Will the Foreign Secretary please state:

(a) whether Agha Syed Zaman Shah, an Afghan subject, was detained in the Deoli Camp from the 16th July, 1940 to November, 1942;

(b) whether he was then released on furnishing a security of Rs. 3,000 and is not allowed to leave the limits of the Peshawar Municipal Committee;

(c) the allowance which is paid to him per month;

(d) whether he has ten dependents, *i.e.*, wife and minor children, and five of his children need education; if so, do Government propose to increase his allowance to an amount which will enable him to make both ends meet; if not, the reasons therefor; and

(e) if Government is not inclined to increase his allowance, whether Government will permit him to leave for Afghanistan where he can begin his profession as a businessman; if not, why not?

Sir George Spence: The question should have been addressed to Home Department.

## MUSLIMS IN WATCH AND WARD DEPARTMENT OF BENGAL AND ASSAM RAILWAY.

403. \*Mr. Muhammad Nauman: (a) Is the Honourable Member for Railways aware of the fact that there has been no increase of Muslim clerks, stenographers, typists and office menials in the Watch and Ward Department of the Bengal and Assam Railway during the period from January 1935 to January 1943?

(b) If the reply to part (a) is in the negative, will the Honourable Member be pleased to state:

(i) the number of temporary and permanent vacancies of the categories of the staff mentioned in part (a) during the period from January 1935 to January 1943;

(ii) the number of Muslims who were appointed in those vacancies;

(iii) the periods for which they worked in those vacancies; and

(iv) the Departments where they were ultimately absorbed?

The Honourable Sir Edward Benthall: (a) No.

(b) I regret I cannot undertake to collect such detailed information under present conditions.

Mr. Muhammad Nauman: May I know whether this information is available to the Railway Board, if not to this House, and that the Railway Board is convinced that the conditions are not as bad as we are willing to believe?

The Honourable Sir Edward Benthall: This information concerns a department of the Bengal and Assam Railway, which, as the Honourable Member himself knows, is very fully engaged in war activities at the present moment. To

†Answer to this question laid on the table, the questioner being absent.

collect all the information which he asks for would require nothing less than a special investigation, which would not be justified at the present moment. The Railway Board does, however, watch these questions in a general way.

**Maulvi Muhammad Abdul Ghani:** This information is for a very long period. But may I know

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member need not argue.

**Maulvi Muhammad Abdul Ghani:** May I know if the Honourable Member would be pleased to collect the information only for the last two years.

**The Honourable Sir Edward Benthall:** Without having precise information as to how much work would be involved, I cannot give that undertaking.

#### MUSLIMS IN WATCH AND WARD DEPARTMENT OF BENGAL AND ASSAM RAILWAY.

**404. \*Mr. Muhammad Nauman:** (a) Is the Honourable Member for Railways aware of the fact that the Muslim clerks, stenographers and typists whom the General Manager, Bengal and Assam Railway, sent to the Watch and Ward Department, Bengal and Assam Railway, to be absorbed in the temporary, substitute, or permanent vacancies during the period from January 1935 to January 1943, were not retained in the said Department but were returned to the Head Office as unsuitable?

(b) If the reply to part (a) is in the negative, will the Honourable Member be pleased to state the number of the newly appointed Muslims in these categories during the said period who were retained by the Superintendent, Watch and Ward, for the whole terms for which they were sent to this Department and who were ultimately made permanent in the said Department?

**The Honourable Sir Edward Benthall:** (a) No.

(b) I regret I cannot undertake to collect such detailed information under present conditions.

#### MUSLIMS IN WATCH AND WARD DEPARTMENT OF BENGAL AND ASSAM RAILWAY

**405. \*Mr. Muhammad Nauman:** (a) Will the Honourable Member for Railways be pleased to state the total number of the posts of Crewmen and Crew-in-Charges in the Watch and Ward Department of the Bengal and Assam Railway which were filled by direct recruitment subject to the communal quota during the period 1st April, 1937 to 31st December, 1942?

(b) Is it a fact that the actual appointments did not correspond with the Muslim quota of forty-five per cent.?

(c) Is it a fact that Muslims who were appointed in those posts and left that Department on account of transfers, promotions or resignations before their confirmation were not replaced by Muslims?

(d) If the reply to part (c) is in the negative, will the Honourable Member kindly state the number of Muslims who were appointed in place of those Muslims who left the Watch and Ward Department before their confirmation?

**The Honourable Sir Edward Benthall:** (a) to (d). I have no information concerning these details but I shall send a copy of the question and the reply to the General Manager for such action as he may consider necessary.

**Mr. Muhammad Nauman:** Will the Honourable Member kindly request him to send the reply to the Railway Board. That will give the Railway Board a chance to find out the information for themselves.

**The Honourable Sir Edward Benthall:** The General Manager will undoubtedly answer the Railway Board's letter.

#### TRANSFER OF MUSLIM CLERKS IN THE OFFICE OF SUPERINTENDENT, WATCH AND WARD, BENGAL AND ASSAM RAILWAY.

**406. \*Mr. Muhammad Nauman:** Will the Honourable Member for Railways be pleased to state if it is a fact that Muslim Clerks working in the office of the Superintendent, Watch and Ward, Bengal and Assam Railway, in the scale of Rs. 30—3—45—5—60 during the period from 1939 to 1941 were transferred to out-stations as Station Inspector's Clerks in the scale of Rs. 30—2—40 and that Hindus were taken in their places?

**The Honourable Sir Edward Benthall:** I have called for information and a reply will be laid on the table of the House in due course.

**MUSLIM WATCHMEN IN WATCH AND WARD DEPARTMENT OF BENGAL AND ASSAM RAILWAY.**

**407. \*Mr. Muhammad Nauman:** (a) Is the Honourable Member for Railways aware of the fact that Muslims have always been kept out from employment as special or literate Watchmen in the Watch and Ward Department of the Bengal and Assam Railway, during the period from April 1935 to December 1942?

(b) If the reply to part (a) is in the negative, will the Honourable Member be pleased to state the number of Muslims and non-Muslims appointed in the said category during the said period?

(c) Is it a fact that the quota of 40 per cent. reserved for the appointment of Muslims in the said category has not been observed?

**The Honourable Sir Edward Benthall:** (a) No, but I have no reason to believe that Muslims were deliberately kept out of these posts, if that is what the Honourable Member means.

(b) I have no information and cannot undertake to collect it under present conditions.

(c) The reservation for Muslims in recruitment to Inferior Services on the Bengal and Assam has only recently been raised to 45 per cent. This applies to Inferior Services as a whole.

**Mr. Muhammad Nauman:** May I know, Sir, if the Honourable Member is prepared to ask for the information, because I based this question on certain information given to me, viz., that the quota was not being maintained in that cadre.

**The Honourable Sir Edward Benthall:** If the Honourable Member would give me that information in detail, it might facilitate action.

**Mr. Muhammad Nauman:** Thank you, Sir.

**MAXIMUM AGE LIMIT FOR CLERICAL RECRUITMENT IN THE POSTS AND TELEGRAPHS DEPARTMENT.**

**†408. \*Mr. Muhammad Nauman:** (a) Will the Secretary of the Posts and Air Department be pleased to state the maximum age limit up to which clerical candidates can be employed in Secretariat, Railways and in Posts and Telegraphs Department?

(b) If the age limit in the Posts and Telegraphs Department is the lowest, what are the reasons for this?

(c) Is it a fact that Muslims in Sind represented to the Director General, Posts and Telegraphs, that members of their community start religious education in the beginning and become Matriculates at about the age of 21 and as such they are not getting full quota of 55 per cent. reservation on that account? If so, what action has been taken by the Department?

(d) How many Muslim and non-Muslim graduates have been taken from the last competitive examination?

(e) Have the clerks any prospects of promotion to gazetted posts in the Post Office? If the reply is in the affirmative, are Government prepared to extend the age limit to encourage the recruitment of sufficient Muslim graduates and under-graduates?

(f) Is it a fact that in the Posts and Telegraphs Department a competitive examination has been introduced recently for promotion to Inspectors and Telegraph Masters line? If so, how many Muslims have been selected in the last examination for Inspectors and Telegraph Masters? Is there any reservation for minority communities in these appointments like other competitive examinations? If not, what steps do Government propose to take to safeguard the interests of the Muslim community in these appointments?

(g) In what departments is a competitive examination prescribed for promotion from lower to higher grades? If it is not universal do Government propose to follow the principle observed in other Departments or to make reservation for the minority communities?

† Answer to this question laid on the table, the questioner having exhausted his quota.



**Sir Gurnath Bewoor:** (a) The maximum age limit up to which clerical candidates can be employed in the Secretariat, Railways and the Posts and Telegraphs Department is generally 25 years, but there are certain age limits prescribed for the recruitment examinations which are held for the selection of candidates for clerical posts. In the Secretariat, the maximum age limit is 19 for typists and Routine Division clerks for whom the minimum educational qualification is Matriculation and 22 for Assistants and Second Division clerks who must be graduates. For the Posts and Telegraphs Department the maximum age limit is 21 and the minimum education qualification is Matriculation.

(b) Does not arise, in view of the reply given to part (a).

(c) Certain representations of this nature were received in the past. Government decided not to raise the maximum age limit but the matter is being examined again. In the meantime, a reduction has been made in the minimum marks prescribed for securing a pass for the recruitment examination and as a result the full quota of Muslims, which is 58½ per cent. in the Sind and Baluchistan Circle, was obtained on the results of the examination held in November 1941 the results of which were announced early in 1942.

(d) Information is being collected and will be laid on the table of the House in due course.

(e) The reply to the first part of the question is in the affirmative. As regards the latter part, no educational qualifications are prescribed for promotion from the clerical cadre to the gazetted grades.

(f) In 1939, the examination for the selection of departmental employees for promotion to the cadre of Inspectors was made competitive in character. The examination for the selection of departmental employees for promotion to the grade of Telegraph Masters is partly competitive and partly qualifying and the first examination on this system was held in 1940. In the last Inspectors' examination 10 Muslims were selected; in Telegraph Masters' examination no Muslim was successful. The reply to the second part of the question is in the negative. As regards the last part, the rules relating to reservation of posts for minority communities do not apply to posts filled by promotion.

(g) Information is being collected and will be laid on the table of the House in due course.

#### CASUALTIES IN THE POSTS AND TELEGRAPHS SERVICES.

**409. \*Maulvi Muhammad Abdul Ghani:** (a) Will the Secretary of the Posts and Air Department please state the total number of casualties which occurred during 1941-42 in the Posts and Telegraphs services under the heads

(i) Gazetted;

(ii) Engineering Supervisors;

(iii) Wireless Supervisors; and

(iv) Telegraphists and Telegraph Masters?

(b) Of the number of casualties which occurred under part (a) will he please state the number filled by (i) direct recruitment and (ii) by promotions, separately, under each head and the number of Muslims therein?

**Sir Gurnath Bewoor:** (a) (i) 52, (ii) 15, (iii) 1, (iv) Telegraphists: 46. Telegraph Masters: 44. Figures under item (iv) have been furnished for the calendar year 1941 as those for the official year 1941-42 are not available.

(b) I lay on the table a statement giving the information required by the Honourable Member.

Grade.	Statement.		Promotion.	
	Direct recruitment.			
	Total.	Muslims.	Total.	Muslims.
Gazetted	4	3	45	1
Engineering Supervisors	7	2	8	1
Wireless Supervisors			1	
Telegraphists	46	17	13	3
Telegraph Masters			43	2

**RETENTION IN SERVICE OF OFFICERS AGED ABOVE SIXTY IN SUPPLY DEPARTMENT.**

**410. \*Nawab Siddique Ali Khan:** (a) Will the Honourable the Supply Member please state the total number of gazetted officers serving under the Supply Department who have reached the age of 60? How many of such officers are being retained in service, and for what reasons?

(b) Is it not a fact that retired officers have been re-employed in some of the Directorates under the Director General of Supply, and they are being retained in service after they have reached the age of 60? If so, why?

(c) Does the Honourable Member realise that by retaining such officers in service, younger officers are penalised and do not get the expected promotion they deserve?

(d) Does the Honourable Member propose to scrutinize his list and dispense with the services of all officers who have reached the age of 60, and to give a chance of promotion to junior officers? If not, why not?

**Mr. J. A. Mackeown:** (a) Three. All are being retained in service on account of the special knowledge and experience required for the duties entrusted to them.

(b) Yes. Two re-employed officers have been retained in service after attaining the age of 60, for the reasons already given.

(c) and (d). The claims of younger officers are given due consideration, but it is not always possible to dispense with the services of older men possessing special qualifications and experience. The three officers concerned are specialists and could not at present be replaced by younger men.

**SMALL CHANGE DIFFICULTIES IN POST AND TELEGRAPH OFFICES.**

**411. \*Bhai Parma Nand:** (a) Will the Secretary for Posts and Air please state whether it is a fact that the Post and Telegraph Offices generally, and the Imperial Secretariat North, in particular, do not give any small change when anybody tenders a currency note to cover postal charges or for purchase of postage stamps, etc., or for telegrams?

(b) Is it a fact that postage stamps are given by these Post and Telegraph Offices for small change?

(c) Is the Honourable Member aware that the action mentioned in part (b) above is being taken despite definite instructions from the Director General, Posts and Telegraphs, that no stamps should be offered in lieu of change?

(d) Is the Honourable Member aware that if anybody from public presents stamps to cover the postal charges or in exchange for postal envelopes or cards, etc., the postal and telegraph authorities refuse to accept them?

(e) What are the reasons for the postal and telegraph authorities issuing postage stamps as small change currency and not accepting the same from the public?

(f) What happens to the small change which the public is made to pay at the postal and telegraph counters, especially when absolutely no change is given by these counters to the public?

(g) Is it contemplated to prosecute any of these postal and telegraph authorities who are found guilty of hoarding in the manner stated above? If not, why not?

**Sir Gurnath Bewoor:** (a) Government are aware that recently owing to the general scarcity of small coins Post and Telegraph Offices have not been able to give small change freely on all occasions to the public in respect of Post and Telegraph transactions. But I understand that when change is available it is given. In this connection, attention is invited to clause 11 of the Post and Telegraph Guide which states that Post Offices are not bound to give change.

(b) and (c). Postage stamps are given to the public in lieu of small coins when such coins are not available only if the member of the public definitely expresses a desire to receive such stamps in the absence of small coins. This is in accordance with the specific order issued by the Director General on the subject.

(d) and (e). Postage stamps are not accepted in lieu of postal charges or in exchange for postal envelopes or postcards for which payment has to be

made in cash because postage stamps are not currency. As already stated, postage stamps are given to the public in lieu of small change only when the public definitely agree to accept them.

(f) Small change received from the Public at Post and Telegraph counters is given out in making payments to the Public in various transactions, as for example, at the counter itself, for money order payments, Savings Bank withdrawals, etc.

(g) The Director General has issued instructions to all the staff informing them that severe action will be taken against any official who fails to give change within reasonable limits to a member of the public when it is available with him. Government have no reason to believe that any Post and Telegraph authorities are hoarding small change, but if any such cases come to notice, suitable action will be taken on the merits of each case.

**Mr. Lalchand Navalrai:** May I know if the Honourable Member is aware that these Postal stamps have become currency all through the country?

**Sir Gurunath Bewoor:** No, Sir. I am not aware of it, but I know that certain shopkeepers and others offer postage stamps for small change.

**Mr. Lalchand Navalrai:** Does the Honourable Member know that even these tongawallahs have stamps in their pockets and they give these stamps instead of the change?

**Sir Gurunath Bewoor:** I am aware that it has happened.

**Mr. Lalchand Navalrai:** May I know from the Honourable Member, if as he says the Post Office is not bound to give any change on account of certain rules that he has quoted, what will happen when we give the money and there is no other residue to be given. How is the situation at that time to be met?

**Sir Gurunath Bewoor:** Sir, the transaction cannot be effected in that case.

**Mr. Lalchand Navalrai:** In that case the Post Office should come to an end and it should close rather than transact business in this way. Is the Honourable Member going to make some arrangements so that small coins are given when we actually pay? For instance, if I pay one anna for a stamp and I have to get back half an anna, how will I get it back?

**Sir Gurunath Bewoor:** Whenever small change is available it is given.

**Mr. K. C. Neogy:** Just five minutes ago I was given seven envelopes and two postcards in lieu of change by the Post Office in the Council Chamber. Is this in accordance with the instructions of the Department?

**Sir Gurunath Bewoor:** The Honourable Member need not have accepted them.

**Mr. K. C. Neogy:** May I know whether the office will accept the change that they have given to me in lieu of any service that I may demand of them?

**Sir Gurunath Bewoor:** It is not currency.

**Mr. Hooseinbhoj A. Lalljee:** Will a postal cover be useful?

**Sir Gurunath Bewoor:** If the Honourable Member wishes to write a letter it will be useful.

**Mr. Hooseinbhoj A. Lalljee:** Is that not a service?

**Sir Cowasjee Jehangir:** May I ask what is to happen if members of the public refuse to take these envelopes and there is no change in the post office? If Mr. Neogy refused to take these covers and there was no change, Mr. Neogy will have to go without his money?

**Sir Gurunath Bewoor:** I am sorry I do not see the point. I mentioned that if Mr. Neogy went with a rupee and wanted to buy nine annas worth of stamps and the postal clerk did not have the remaining change for seven annas, there were two alternatives—one is for Mr. Neogy to go and obtain change for nine annas and present it at the post office, and the other is to accept the remainder of seven annas in the form of postage stamps or cards if he likes. There is no compulsion and it is wrong to say that the post office has given him change in the form of postage stamps.

**Dr. P. N. Banerjee:** Can you not make arrangements to give change?

**Sir Gurunath Bewoor:** It is being made; as I said, it does not often happen. In the old days the post offices collected a large quantity of small coins and frequently had to send it to the treasury at the end of the day; but unfortunately now, very little change comes in at the counter and it goes out and nothing remains now. It is a one way traffic.

**Mr. Lalchand Navalrai:** Will the Honourable Members on the Treasury Benches consider this position which is very critical, whether transactions are not going to be done at all?

**The Honourable Sir Jeremy Raisman:** Government are fully aware of the extreme inconvenience which has arisen from the present position, and I have explained what Government are doing to meet the situation. It is my belief that within a reasonable time it will be overcome and that there will be a plethora of small coins in the country.

**Mr. K. C. Neogy:** May I tell the Honourable the Finance Member that many of us have not as yet seen his new pice coin?

**The Honourable Sir Jeremy Raisman:** That may be; it does not follow that a newly issued coin appears in all parts of the country at the same time.

**Sir Muhammad Yamin Khan:** Does the Honourable Member know that these new pice coins are being used in place of washers, which now cost an anna and a half if you purchase them?

**The Honourable Sir Jeremy Raisman:** We regard that as a good joke.

**Qazi Muhammad Ahmad Kazmi:** Will Government consider the advisability of making postage stamps the currency of the country?

**The Honourable Sir Jeremy Raisman:** Yes; the answer is that they are obviously unsuitable for the purpose.

#### ESTABLISHMENT OF MOTOR CAR ASSEMBLY PLANTS IN INDIA.

**412. \*Mr. K. C. Neogy:** Will the Honourable Member representing the Supply Department be pleased to state:

(a) whether the Government of India have already made arrangements for the establishment of motor car assembly plants in India; and

(b) whether it is a fact that facilities in this behalf have been given to a non-Indian concern in India, while the repeated requests of the Indian manufacturers have been turned down?

**Mr. J. A. Mackeown:** (a) and (b). No.

**Mr. K. C. Neogy:** May I know whether any assembly plants have at all been set up in this country?

**Mr. J. A. Mackeown:** Not since the beginning of the war, so far as I am aware.

**Mr. K. C. Neogy:** Is there any proposal to set up any such assembly plant?

**Mr. J. A. Mackeown:** There was a proposal which was abandoned. I believe that the matter is constantly under consideration to see whether any further plants are necessary or not in the interests of the war effort; but at the moment there is no definite proposal whatever.

**Mr. K. C. Neogy:** How long will it take the Government to come to any decision on the proposal which the Honourable Member said was under consideration?

**Mr. J. A. Mackeown:** I did not say it was under consideration. I only said that no such specific proposal was under consideration. The position is that naturally the military authorities have to consider from time to time whether the existing plant is sufficient for their needs; and as far as we know that process is a continuous one. There is no definite proposal at present for setting up any further assembly plant.

**Mr. K. C. Neogy:** What is the attitude of Government towards the question of starting a motor industry in India generally?

**Mr. J. A. Mackeown:** I submit that does not arise out of this.

#### GOVERNMENT POLICY REGARDING IMPORT OF PLANTS AND MACHINERY FOR PRODUCTION OF POWER ALCOHOL.

**413. \*Mr. K. C. Neogy:** Will the Honourable Member representing the Supply Department be pleased to state:

(a) whether in pursuance of the announcement of Government to give priority to the import of plants and machinery for the production of power alcohol, steps have been taken by Government to make available such plants to the manufacturers in India;

(b) whether the Government of India have approached the Government of the United States of America for necessary facilities in regard to the import of plants and machinery for the production of power alcohol;

(c) whether it is a fact that the British and American Petroleum interests have come in the way of India establishing power alcohol plants; and

(d) the Government's policy and programme in this matter?

**Mr. J. A. Mackeown:** (a) and (b). The Government of India have instructed the Indian Supply Mission in Washington to endeavour to secure two power alcohol plants on Lease/Lend terms.

(c) No.

(d) The policy of the Government of India is to encourage the production of power alcohol, but detailed enquiries show that an attempt to secure and instal imported plant on a large scale would not yield substantial results within a reasonable time. Government have accordingly decided that apart from the two plants referred to above they will not attempt to import equipment but will concentrate on increasing the production of rectified spirit with plant the whole or the greater part of which can be fabricated in India. An expert has been borrowed from one of the Ordnance Factories and the preliminary work is now in hand.

**Mr. K. C. Neogy:** When are the two plants referred to by the Honourable Member expected to arrive in India?

**Mr. J. A. Mackeown:** So far as I am aware, we have not yet had any information that the plants have yet been released by the American authorities.

**Mr. K. C. Neogy:** Have Government made a selection of the parties to whom the plants would be given?

**Mr. J. A. Mackeown:** No; that matter is still being considered.

**Mr. Hooseinbhy A. Lalljee:** Where will these plants be working when they arrive?

**Mr. J. A. Mackeown:** I am unable to give an answer to that question, until it is decided to whom the plants will be allotted.

**Mr. T. T. Krishnamachari:** May I ask whether the Government's policy in regard to power alcohol will be limited to war time or will be projected into peace time as well?

**Mr. J. A. Mackeown:** I am unable to give an undertaking about the future, Sir. At present we are considering purely war needs.

**Maulvi Muhammad Abdul Ghani:** Will Government be pleased to consider the desirability of placing one of the plants in Bihar and another in the United Provinces—the centre for molasses?

**Mr. J. A. Mackeown:** I have no doubt that all relevant parts of the country will be considered.

**Mr. K. C. Neogy:** What will be the approximate capacity of these two plants taken together?

**Mr. J. A. Mackeown:** I am afraid I have no information on that.

#### DISCRIMINATION IN ISSUING RAILWAY PRIORITY CERTIFICATES FOR TRANSPORT OF BONES, ETC.

†414. **\*Khan Bahadur Shaikh Fazl-i-Haq Piracha:** (a) Will the Honourable Member for War Transport please state if bones, raw or crushed, or bone meal for manure, hooves and horns are a class of commodities, the transport of which is closed by goods trains, and for which Railway Priority Certificates are obtained on application from the Railway Priorities Department of war transport through the Regional Controller of Railway Priorities, Calcutta?

(b) On what basis are priority certificates granted to some applicants and refused to others, while applying under the same circumstances?

(c) Is it a fact that the following firms dealing with bone industries applied for priority certificates for wagons for the transport of bones, hooves and horns;

†Answer to this question laid on the table, the questioner being absent.

to the authority concerned last year? If so, for how many wagons did each of them apply and for how many wagons were priority certificates granted to each of them, last year? What were the reasons for granting certificates to some and refusing to others:

- (i) Carlander and Company, Calcutta, of Ganges Valley Bone Mill at Bally (E. I. R.);
- (ii) David Sasoon and Company, Calcutta, of Bone Mill at Sangtragachi (B. N. W. R. and E. B. R.);
- (iii) Ralli Brothers, Cawnpore, of Bone Mill Maggharwara (E. I. R.);
- (iv) Messrs. Gupta Company of Changri Hatta, of Bone Mill at Ulta Danga (E. B. R.);
- (v) Messrs. Haji Mohammad Said Mohammad Sharif, of Bone Mill Hapur (E. I. R.);
- (vi) Hajee Mehr Bakhsh Maula Bakhsh, Agents, Ralli Brothers, Karachi, of Bone Mill at Landi (N. W. R.)?

(d) Are Government aware that there is a general feeling among the public that in granting priority certificates for wagons foreign firms are given preference over the Indian firms to their great loss?

(e) Does the Honourable Member propose to see that in issuing priority certificates for wagons no discrimination is made and that all applicants are treated alike and that in order to keep the bone industry going priority certificates are issued to meet their needs as far as possible?

**The Honourable Sir Edward Benthall:** Information is being collected and will be laid on the table when received.

#### UNSTARRED QUESTIONS AND ANSWERS.

##### DIFFERENT RATES OF PAY, ETC., FOR TICKET EXAMINERS ON EAST INDIAN AND NORTH WESTERN RAILWAYS.

**72. Hajee Chowdhury Muhammad Ismail Khan:** Will the Honourable Member for Railways please state the rates and nature of allowances paid to the Travelling Ticket Examiners on the East Indian Railway and the Special Ticket Examiners on the North Western Railway together with a statement of the nature of duties they perform, separately, and the reasons for the different rates for the same work, if any?

**The Honourable Sir Edward Benthall:** The Honourable Member is referred to the reply given by the Honourable Sir Muhammad Zafrulla Khan to starred question No. 832 asked by the Honourable Qazi Muhammad Ahmad Kazmi on the 26th February, 1936.

##### DESIRABILITY OF CERTAIN TRAIN CONNECTIONS TO AND FROM KALKA.

**73. Hajee Chowdhury Muhammad Ismail Khan:** Will the Honourable Member for Railways please state the reasons for not connecting Kalka with trains Nos. 81 Up and 82 Dn. (Delhi-Panipat-Ambala) from November 1942, and if Government propose to extend these trains to and from Kalka?

**The Honourable Sir Edward Benthall:** I presume that the extension of these trains, which run between Ambala and Delhi, to Kalka has not in the past been justified by the traffic offering. It is primarily a matter for discussion at a Local Advisory Committee meeting, and I am therefore sending a copy of the question and the reply to the General Manager, North Western Railway, for disposal.

##### DUTIES OF DIFFERENT GUARDS ON NORTH WESTERN RAILWAY.

**74. Hajee Chowdhury Muhammad Ismail Khan:** Will the Honourable Member for Railways please state comparatively the duties of a Guard, a Luggage Guard and a Conductor Guard on the North Western Railway?

**The Honourable Sir Edward Benthall:** The duties of a guard in charge of a train are manifold, and those of particular importance are embodied in the Indian State Railways General Rules, Parts I and II, a copy of which is in the library of the House. Other duties appear in the North Western Railway Operating Manual and the North Western Railway General and Subsidiary Rules, copies of which will be shown to the Honourable Member, if he so desires, on a visit to the Railway Board.

The duties of a Conductor Guard are also detailed in the North Western Railway Operating Manual, and will be shown to the Honourable Member if he so desires.

A Luggage Guard is entrusted with the supervision, check and correct handling of luggage and parcels carried by passenger trains.

#### ABOLITION OF CERTAIN POSTS OF GUARDS OF NORTH WESTERN RAILWAY.

**75. Hajee Chowdhury Muhammad Ismail Khan:** Will the Honourable Member for Railways please state:

(a) the reasons for abolishing the posts of Grade IV Guards on the North Western Railway;

(b) the reasons for abolishing the scale of pay (115—210) of Luggage Guards on the North Western Railway; and

(c) the reasons for detailing the Commercial Staff instead of Transportation Staff for training in Course T-5 on the North Western Railway?

**The Honourable Sir Edward Benthall:** (a) Operating requirements did not necessitate the retention of this grade.

(b) There were no grades of Luggage Guards (115—210), but Guards of various grades are being utilised to perform these duties as occasion demanded.

(c) As the course, now renamed PI, is a promotion course for senior Assistant Station Masters, the duties of which posts involve both Transportation and Commercial matters, men in both the branches are chosen for the course.

#### RECRUITMENT FOR POSTS OF ENQUIRY CLERKS ON NORTH WESTERN RAILWAY.

**76. Hajee Chowdhury Muhammad Ismail Khan:** Will the Honourable Member for Railways please state the categories from which recruitment is made for the posts of Enquiry Clerks on the North Western Railway, and how they stand in seniority on appointment to Enquiry Clerks?

**The Honourable Sir Edward Benthall:** These posts are filled by promotion through selection from amongst suitable Transportation (Traffic) and Commercial Staff such as Assistant Station Masters, Parcel Clerks, Booking Clerks, Goods Clerks, Ticket Collectors, etc. As regards the second part, the seniority of Enquiry Clerks is fixed, Government understand, in the order of merit assigned at the selection.

#### TIME ALLOWED FOR INSPECTION OF STATION ACCOUNTS ON EAST INDIAN RAILWAY.

**77. Hajee Chowdhury Muhammad Ismail Khan:** Will the Honourable Member for Railways please state:

(a) the class, i.e., supervisory or otherwise, to which the Inspectors of Station Accounts on the East Indian Railway belong under the Hours of Employment Regulation;

(b) if it is a fact that the Inspectors of Station Accounts are required to work according to the programmes issued to them by the Deputy Chief Accounts Officer (Traffic Branch);

(c) the basis for fixing the number of days for inspection of Station Accounts;

(d) the time allowed for inspection of the following stations: Fyzabad, Shah-jahanpur, Rampur, Roorkee, Najibabad, Bulandshahr, Khurja City, Nagina, Khurja Junction, Amroha, Hardwar and Gurhmukhtesar together with the monthly statement of the Inward and Outward Goods and Coaching Traffic of these stations during the preceding three years or as near back as available and the monthly earnings including the Terminal Tax (to be shown separately) for the same period for these stations; and

(e) if there is any section where an Inspector has to spend nine hours on journey from the Headquarters to the Station of Inspection; if so, the name of such section; and if any step has been taken to cover this waste of time; if no step has been taken, the reasons therefor?

**The Honourable Sir Edward Benthall:** (a) Supervisory.

(b) to (e). Information has been called for and a reply will be laid on the table of the House in due course.

#### TIME ALLOWED FOR INSPECTION OF STATION ACCOUNTS OF EAST INDIAN RAILWAY.

**78. Hajee Chowdhury Muhammad Ismail Khan:** Will the Honourable Member for Railways please state:

(a) if it is a fact that if an Inspector of Station Accounts on the East Indian Railway has taken any extra day in excess of the time allowed to him for the inspection of the station, that extra day or days are counted as leave; if so, the rule under which this is done; and

(b) if it is a fact that the Inspectors have represented to the Accounts Officer (Travelling) for a personal check of the stations where time in excess of the scheduled time is required; if so, if the Accounts Officer has ever checked them and satisfied himself that the time allowed is insufficient; if not, why not?

**The Honourable Sir Edward Benthall:** Information has been called for and a reply will be laid on the table of the House in due course.

**TIME ALLOWED FOR INSPECTION OF STATION ACCOUNTS ON EAST INDIAN RAILWAY.**

**79. Hajee Chowdhury Muhammad Ismail Khan:** Will the Honourable Member for Railways please state:

(a) if it is a fact that the protection of the Railway revenues chiefly depends on the hard labours of the Inspectors of Station Accounts, East Indian Railway;

(b) if it is a fact that if insufficient time is allowed for the inspection of a station, defalcations are often apt to escape detection and the Inspectors are punished for their omissions due to their being overburdened; and

(c) if Government propose to enquire into the matter; if not, why not?

**The Honourable Sir Edward Benthall:** (a) No, but the internal audit check exercised by the Travelling Inspectors of Accounts at stations is a valuable contribution to accounts control.

(b) Adequate time is allowed for inspections, and extra time is granted and extra staff sanctioned when necessary.

(c) Does not arise.

**BLOCKED PROMOTION OF INSPECTORS OF STATION ACCOUNTS ON EAST INDIAN RAILWAY.**

**80. Hajee Chowdhury Muhammad Ismail Khan:** Will the Honourable Member for Railways please state:

(a) if it is a fact that there are a number of Inspectors of Station Accounts on the East Indian Railway who are blocked at Rs. 270 for a number of years and there is no hope of their ever being promoted to the next higher grade during the remainder of their service; if so, the reasons therefor; and

(b) if Government propose to enquire into the causes, and to take steps to remove the grievance of the staff in this regard, if not, why not?

**The Honourable Sir Edward Benthall:** (a) There are three Inspectors who reached the maximum of Rs. 270 more than ten years ago and four who reached the maximum in 1934. All of them will have chances of being promoted before they retire.

(b) No enquiry appears to be necessary. There are seven senior grade posts and 11 junior grade posts and this can be regarded as reasonable.

**CHANNEL FOR APPOINTMENT AS INSPECTOR (ROLLING STOCK), JAMALPUR TRAINING SCHOOL.**

**81. Hajee Chowdhury Muhammad Ismail Khan:** (a) Will the Honourable Member for Railways please state the categories of the staff from which the recruitment for the appointment of Inspector (Rolling Stock), Jamalpur Training School, East Indian Railway, is made?

(b) What are the rules for such recruitment, and when was the Selection Board for the recruitment of the present incumbent held? Will he be pleased to furnish a list of the candidates who appeared before the Selection Board or whose names were laid before it? If no list was placed before the Selection Board, what are the reasons therefor?

**The Honourable Sir Edward Benthall:** (a) The Honourable Member presumably refers to the post of Rolling Stock Instructor in the Jamalpur Technical School. There are no specific categories of staff who can look for promotion to this post which needs special aptitude and is filled by selection.

(b) The post referred to is filled by the promotion or transfer of an employee already in service and not by direct recruitment. The present incumbent was appointed to the post in October, 1941 and as he was the only suitable employee



who was willing to take up the post no selection Board was held. The other parts do not arise.

**CHANNEL FOR PROMOTION AS INSPECTOR, TRANSPORTATION (ROLLING STOCK).**

**82. Hajee Chowdhury Muhammad Ismail Khan:** Will the Honourable Member for Railways please state:

(a) if it is a fact that promotion to the appointment of an Inspector, Transportation (Rolling Stock), is made from amongst (i) the old Oudh and Rohilkhund Train Examiners, Grade A, (ii) the old East Indian Railway (Company Staff) Train Examiners, Grade I, and (iii) the combined staff of the Train Examiners, Grade I, recruited after 1925;

(b) how the seniority of the said staff is maintained for promotion; and

(c) what are the reasons for considering the old Oudh and Rohilkhund Head Train Examiners, Grade I, inferior to the old East Indian Railway Head Train Examiners, Grade I, and also to the Combined System Head Train Examiners, Grade I? If this is not the case, is it proposed to lay on the table the latest seniority list of the said staff?

**The Honourable Sir Edward Benthall:** Information has been called for and a reply will be laid on the table of the House in due course.

**SINDHIS AS ASSISTANT DIRECTORS, ETC., IN THE SIND AND BALUCHISTAN POSTAL CIRCLE.**

**83. Mr. Lalchand Navalrai:** (a) Will the Secretary for Posts and Air be pleased to state how many Assistant Directors and Superintendents there are at present in the Posts and Telegraphs Department in Sind and Baluchistan, and since when and what provinces they are residents of?

(b) How many Inspectors are there in the Posts and Telegraphs Department in Sind and Baluchistan who can rise to the post of a Superintendent and when is their selection to take place?

(c) Is it a fact that no Sindhi has been appointed as Superintendent for the past several years in the Sind and Baluchistan Circle? If so, will the authorities give a chance to the Sindhis for selection to the posts of Superintendents, if so, when?

(d) How many Office Superintendents are working in the office of the Director, Posts and Telegraphs, in the Sind and Baluchistan Circle and since when?

(e) Is there any waiting list of candidates for clerkship in the office of the Director and Post Master of the General Post Office, Karachi? If so, how many candidates are there who are still unemployed and since when?

**Sir Gurunath Bewoor:** (a) There are at present six Superintendents of Post Offices, including Assistant Directors, in the Sind and Baluchistan Circle. One of them has been there in that rank since 1930, one since 1937, three since 1941 and one since 1942. One of them is a European, one is a resident of Delhi Province two are residents of the Punjab and two are residents of Sind.

(b) Inspectors who have put in five years' service in the Inspectors' grade and are not above 45 years of age are eligible for selection to the Post of Superintendents provided that they are considered fit for such promotion. Selection is made as and when circumstances necessitate.

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

(d) There is one Office Superintendent in the Office of the Director of Posts and Telegraphs, Sind and Baluchistan Circle. He has been working as such since January 1933.

(e) Yes, there is a waiting list of approved candidates in each of the offices. No candidate in any of the lists is at present unemployed.

**STAFF APPOINTED AS TRANSPORTATION INSPECTORS IN MORADABAD DIVISION.**

**84. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please state:

(a) if it is a fact that one of the essential factors which is taken into account for selecting staff for the appointment of a Transportation Inspector (Movement, Commercial, Power or Stock) is their previous experience of work in appointments in which they had supervisory and inspecting duties; and

(b) if it is a fact that during the preceding five years only selected candidates have been given such experience on the East Indian Railway in general, and Moradabad Division in particular, ignoring the eligible senior men; if not, whether the Honourable Member proposes to lay a list of the staff appointed as Transportation Inspectors during the said period showing the dates of the appointments and of the initial recruitments and the dates and appointments of the intermediate class or category; if not, why not?

**The Honourable Sir Edward Benthall:** Information has been called for and a reply will be laid on the table of the House in due course.

**DESIRABILITY OF EXTENDING DELHI DEARNESS ALLOWANCE TO RAILWAY EMPLOYEES IN SHAHDARA.**

**85. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please state:

(a) if it is a fact that:

(i) the office of the Divisional Superintendent, North Western Railway, Delhi Division, is located within the Municipality of New Delhi;

(ii) the office of the Indian Railways' Conference Association is also located within the Municipality of New Delhi;

(iii) the office of the Director of Railway Clearing Accounts Office is located within the Municipality of Delhi;

(iv) a certain percentage of the staff of these three respective offices resided and was included in the Census Returns, 1941, of Delhi Shahdara, Ghaziabad (Meerut District), New Delhi Cantonment, Delhi Civil Lines and Delhi Fort Municipalities and the Delhi City Municipality;

(v) in granting the dearness allowance to railway servants, the population of the Municipality in which the railway servant resides or in which the office is located, is taken into consideration; and

(vi) the railway servants upto the pay of Rs. 80 (eighty) of the North Western Railway working and residing in the Delhi Shahdara Railway Station are denied the dearness allowance at the rate paid to the railway servants working and residing in New Delhi, irrespective of the population of the New Delhi Municipality, viz., 93,733 and of Shahdara (15,955) and of considering Shahdara within 5 miles radius of Delhi for purposes of travelling allowance; if so, the reasons for including New Delhi within the Delhi Municipality and for excluding Shahdara from it only for the purposes of dearness allowance; and

(b) if Government now propose to admit Shahdara like New Delhi for the grant of dearness allowance to railway servants in Shahdara on the same principles as the staff of other departments (Police, Municipality, Medical, etc.) are paid; if not, why not?

**The Honourable Sir Edward Benthall:** (a) (i) to (iv). Yes.

(a) (v). No; the allowance is determined on the headquarters of the staff.

(a) (vi). The staff whose headquarters are at Shahdara are paid dearness allowance at a lower rate than staff whose headquarters are at New Delhi as New Delhi and Delhi being contiguous areas have been taken together for assessing the population. As regards Shahdara being considered within a radius of five miles of Delhi, it is a physical fact and, therefore, requires no special orders. Shahdara is not contiguous with Delhi and, therefore, cannot be considered as part of Delhi for purposes of dearness allowance.

(b) No; the various schemes of dearness allowance sanctioned by different authorities are not the same and it is impracticable to secure uniformity.

**DESIRABILITY OF MAKING INDIAN REFRESHMENT ROOMS AT KALKA RENT-FREE.**

**86. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please refer to the Resolution accepted by the Central Advisory Council for Railways on the 16th September, 1939, viz., "Resolved that an economic rent should be charged in all cases" and state:

(a) if it is a fact that:

(i) the North Western Railway charges rent for Refreshment Rooms at a certain percentage of the capital outlay;

(ii) the rooms occupied by the European Refreshments at Kalka incurred more capital outlay than the Indian Refreshment Rooms; if not the costs

separately of the Refreshment Rooms at Kalka; and

(iii) due to the levy of the rent on Indian Refreshment Rooms these rooms remained locked during the winter 1942-1943 and, in spite of the abnormal traffic during that period, the North Western Railway Administration took no steps for Indian style meals to be supplied to the travelling public by declaring these Indian Refreshment Rooms rent free; and

(b) if Government now propose to declare the Indian Refreshment Rooms at Kalka rent free in the interest of the travelling public and at a little loss to the railway revenue; if not, why not?

**The Honourable Sir Edward Benthall:** The Honourable Member's quotation of the resolution is incomplete.

(a) (i). Yes, after making adjustments which may be necessary on the basis of the income derived.

(ii) Yes. The second portion of the question does not therefore arise.

(iii) The Indian Refreshment Rooms remained closed during the winter of 1942-43 in accordance with the previous practice, but owing to a demand having arisen during the winter of 1942-43, arrangements are being made to keep them open throughout the year.

(b) No. I am informed that an examination of the rental charges shows that taking into consideration the income derived by the contractors, the prescribed charges are not unreasonable.

#### REPLACEMENT OF CATERING CONTRACTORS AND VENDING LICENCEES ON EAST INDIAN RAILWAYS.

**87. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please refer to the proceedings of the meeting of the Central Advisory Council for Railways held on the 18th March, 1940, regarding subject No. 3—"Area of Catering Contracts on Railways", and state:

(a) the policy in the matter of granting contracts and licences laid down by the Railway Administrations together with the results of the consultations with their Local Advisory Committees;

(b) if it is a fact that the contractors and vending licencees on the East Indian Railways who have rendered and are rendering satisfactory service since the 18th March, 1940, have been and are being replaced; if not, if it is proposed to lay on the table of the House a list showing the names of the contractors and vending licencees separately who held licences on the 18th March, 1940, and on the 18th March, 1943, respectively, together with the dates of the cessation or discharge or termination of the contract or licence and the reasons therefor and the duration of the contract or licence of each contractor held by them; and

(c) if it is proposed to lay a list of the contractors of the Lucknow Division who have been served with notice of termination of contracts since January 1943, together with the period of duration of the contract, and the reasons for the termination, and the names of applicants who will replace them?

**The Honourable Sir Edward Benthall:** (a) The policy followed is as recommended by the Central Advisory Council and accepted by Government. Quarterly summaries of the Proceedings of Local Advisory Committees are in the library of the House for the information of Honourable Members.

(b) Government have no information indicating that this is a fact; the answer to the second portion is in the negative.

(c) The answer is in the negative.

#### USE OF INSPECTION CARRIAGES BY OFFICERS OF THE MORADABAD DIVISION.

**88. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please state:

(a) the use of the Inspection Carriages by the officers of the Moradabad Division of the East Indian Railway during the periods from 1st October, 1941, to the 31st March, 1942, and from 1st April, 1942, to the 30th September, 1942, respectively;

(b) the name of the officer who used it for each occasion together with the particulars of persons travelled with him each time and the maundage of luggage carried by him on each journey;

(c) the purposes of the journey for which the inspection Carriage was used by him; and

(d) the justification of the expenditure on each journey by each officer during these periods from Moradabad to Dehra Dun, to Mussoorie and back together with the expenditure on journeys during the period by officers of other Divisions for the same distance?

**The Honourable Sir Edward Benthall:** (a) to (d). The information asked for is not readily available and its collection would involve an amount of time and labour which would not be justifiable in war-time.

#### DEATH OF MR. S. SATYAMURTI.

**The Honourable Sir Reginald Maxwell** (Home Member): Sir, I ask your permission to refer to the death of Mr. Satyamurti, the news of which has naturally come as a shock to the Members of this Assembly where he was so conspicuous a figure. He played a prominent part in public life for many years, both before and after he became a Member of this Assembly, and in addition to his parliamentary and political activities, he held the office of the Mayor of Madras with I believe conspicuous distinction. But we here naturally think first of his outstanding parliamentary ability and of the immense industry which he brought to bear on the discharge of his functions as a Member of this House and as Deputy Leader of the principal Opposition Party therein. His skill and pertinacity at the question hour and in debate will not readily be forgotten, and even those who like myself often had to cross swords with him could not but feel a liking for his earnest personality. I would ask you to convey in expression of the sympathy of this House to the members of his family.

**Nawabzada Muhammad Liaquat Ali Khan** (Rohilkund and Kumaon Divisions: Muhammadan Rural): I join the Honourable the Home Member in mourning the loss of one of our valued colleagues and paying a tribute to his memory. Mr. Satyamurti, as has been pointed out, entered public life many years ago and for several years he occupied a very prominent position in the political arena of the country. As Mayor of Madras he rendered invaluable services to that city, and I am sure that the people of Madras, in particular, will remember the services which he had rendered to that city, with gratitude.

Mr. Satyamurti believed in constitutional development and working the constitution, and although on occasions he did not see eye to eye with his party with regard to the policy of ploughing barren sands with the furrow of civil disobedience and boycott, yet, he always obeyed the behests and the decisions of the party. He never hesitated to suffer privations, physical or otherwise, whenever the call came, and thus, the sense of discipline which he showed is worthy of emulation. As a Member of this House he was one of the powerful personalities. His forceful speeches and his mastery over the marshalling of facts and historical survey of problems that came up for discussion before this House, evoked the admiration of every Member of this House. His loss will be felt very much by every section of this House, and we shall indeed miss him greatly. I join the Honourable the Home Member in requesting you to send our sympathies, the sympathies of the Muslim League Party, to the members of the bereaved family.

**Dr. P. N. Banerjee** (Calcutta Suburbs: Non-Muhammadan Urban): I associate myself with the observations which have been made by the Honourable the Acting Leader of the House and the Honourable Deputy Leader of the Muslim League Party. Mr. Satyamurti was a man of great ability and phenomenal industry, and his devotion to work in this Assembly was almost unparalleled. Mr. Satyamurti suffered from illness for a considerable time, and the circumstances in which he died make his death all the more regrettable to us. Mr. Satyamurti has passed away but he has left behind an example for all of us to emulate. The country and this Assembly in particular has suffered a great loss, and both the country and this Assembly are distinctly the poorer by his passing away. I request that you may be able to convey the condolences of this Assembly to the bereaved members of his family.

**Mr. Hooseinbhoy A. Lalljee** (Bombay Central Division: Muhammadan Rural): I rise to associate my Party with the sentiments that have been expressed by the Leader of the House and the Leaders of the two prominent Parties. I had the privilege of working with Mr. Satyamurti for several years and I can say from personal knowledge that there are very few Indians who have studied the questions that came up before them, in the thorough manner in which Mr. Satyamurti did it. We know very well that since 1937 he had not been keeping good health, but whilst suffering seriously, he never neglected his duties. In the Madras Presidency, and especially as Mayor of Madras, he did very good service, and those of us who know the great good that local municipalities can do to the people, can appreciate what immense good Mr. Satyamurti has been able to do for his Presidency. As Dr. Banerjee and the Deputy Leader of the Muslim League Party have stated, his death is a great loss to this House and we will miss him very badly. With these words I beg of you to convey the sympathies of this House to the members of his family.

**Sir Henry Richardson** (Nominated Non-Official): We in this Group wholeheartedly associate ourselves with the sentiments which have been expressed by the Honourable the Home Member and the other Party Leaders. Mr. Satyamurti was a great fighter whose sterling qualities we admitted and respected even when we differed from him, and we sincerely regret the passing of this great Indian.

**Mr. President** (The Honourable Sir Abdur Rahim): I fully share the sorrow which has been expressed from all sides of the House at the passing away of Mr. Satyamurti who was such a notable and prominent figure in this Assembly. No one could have watched him as I did for several years,—the way in which he applied himself to his duties as one of the Leaders of the Congress Party, his extraordinary parliamentary gifts and his strenuous advocacy of the policy which he was here to represent, that his premature death is a great loss to this Assembly. I shall convey the sympathy of the House to the bereaved members of the deceased's family.

**Maulvi Syed Murtaza Sahib Bahadur** (South Madras: Muhammadan): May I, in this connection, make one submission. Though Mr. Satyamurti was not attending our House he was a sitting Member and, as has been rightly pointed out by the Honourable the Home Member, he was a prominent figure. May I, therefore, suggest that the House may adjourn in honour of his memory?

**Mr. President** (The Honourable Sir Abdur Rahim): The convention which has been observed by the Assembly for some time is to adjourn the Assembly only in cases where a sitting member dies in Delhi or Simla, where the Assembly is sitting in order to enable Members to attend the funeral. Therefore, I do not think it would be right to adjourn the Assembly on this occasion though we all feel the great loss which this House has sustained.

#### RESOLUTION RE GRIEVANCES OF OFFICIALS AND SECRETARIAT ASSISTANTS EMPLOYED IN RAILWAYS—*contd.*

##### RULING re WITHDRAWAL OF THE RESOLUTION AS AMENDED.

**Mr. President** (The Honourable Sir Abdur Rahim): The House will remember that on the 25th March, 1943, when Mr. Jamnadas Mehta wanted to ask for leave of the House to withdraw a Resolution of his as amended after division had been called and the division bells were still ringing, I ruled that he could not do so at that stage. On considering the matter further I wish to inform Honourable Members that while I was right in refusing, while the division bells were ringing, to enquire whether it was the pleasure of the House that the Resolution should be withdrawn. I was not right in laying down that the Resolution could not be withdrawn by leave of the House after amendments to it had been adopted. It is laid down in May's Parliamentary Practice at page 273:

"Where an amendment has been proposed to a question, the original motion cannot be withdrawn until the amendment has been first disposed of by being agreed to, withdrawn or negatived: as the question on the amendment stands before the original question."

I am not aware of any ruling on the subject by the President of this Assembly but having given my best consideration to the matter I am satisfied that

the British Parliamentary practice in this respect should be followed, since the Mover of the amendment or any other Member can prevent withdrawal of a motion by raising his dissentient voice after the amendment has been disposed of.

#### ELECTION OF MEMBERS TO THE STANDING COMMITTEE FOR THE LABOUR DEPARTMENT.

**Mr. President** (The Honourable Sir Abdur Rahim): I have to inform the Assembly that the following Members have been elected to the Standing Committee for the Department of Labour:

1. Mr. N. M. Joshi. 2. Maulvi Muhammad Hossain Choudhury. 3. Mr. Jamnadas M. Mehta. 4. Sir Abdul Halim Ghuznavi. 5. Mr. C. C. M. Miller.

#### ELECTION OF MEMBERS TO THE STANDING COMMITTEE FOR THE SUPPLY DEPARTMENT.

**Mr. President** (The Honourable Sir Abdur Rahim): I have to inform the Assembly that the following Members have been elected to the Standing Committee for the Department of Supply:

1. Mr. Saiyid Haider Imam. 2. Mr. Hooseinbhoj A. Lalljee. 3. Sir Henry Richardson. 4. Sir Abdul Halim Ghuznavi. 5. Mr. R. R. Gupta.

#### ELECTION OF A MEMBER TO THE STANDING FINANCE COMMITTEE.

**Mr. President** (The Honourable Sir Abdur Rahim): I have to inform the Assembly that upto 12 Noon on Friday, the 26th March, 1943, the time fixed for receiving nominations for the Standing Finance Committee, two nominations were received. Subsequently one candidate withdrew his candidature. As there is only one vacancy I declare Raja T. Manavedan to be duly elected.

#### ELECTION OF A MEMBER TO THE CENTRAL COMMITTEE OF THE TUBERCULOSIS ASSOCIATION IN INDIA.

**Mr. President** (The Honourable Sir Abdur Rahim): I have to inform the Assembly that upto 12 Noon on Friday, the 26th March, 1943, the time fixed for receiving nominations for the Central Committee of the Tuberculosis Association, only one nomination was received. As there is only one vacancy I declare Dr. Sir Ratanji Dinshaw Dalal to be duly elected.

#### STATEMENT LAID ON THE TABLE.

##### NET EARNINGS OF RECENTLY CONSTRUCTED RAILWAY LINES.

**The Honourable Sir Edward Benthall** (Member for Railways and War Transport): Sir, I lay on the table a statement showing the net earnings during the financial year 1941-42 of recently constructed Railway lines.

*Statement showing net earnings during the financial year 1941-42 of new Railway lines opened on and after the 1st April 1935.*

(NOTE—Only such lines as are entirely open and have been working for a full year are included.)

Serial No.	Name of project.	Working Railway.	Gauge.	Mileage.	Date of opening.	Net income creditable to the project for 1941-42.	Percentage return of income (column 6 on capital outlay).		Estimated Percentage return of income on capital outlay some years after opening as estimated originally.
							1940-41.	1941-42.	
1	2	3	4	5	6	7	8	9	10
1	Jhudo-Pithoro	Jodhpur.	Metre.	64.11	1-6-1935	3,03,567	12.05	13.12	6.12
2	Khadro-Nawabshah	Do.	Metre.	30.72	20-11-1939	2,36,823	14.37	15.29	0.87 (a)
3	Agastampalli Point Calimerc.	South Indian.	Metre.	5.50	20-1-1936	—19,757	—5.32	—5.88	—10.5 (c)
						(b)	(b)	(b)	

(a) This is the figure arrived at in the "final location survey". The earlier estimates produced before the Standing Finance Committee showed a probable return of 0.5 per cent. only.

(b) Excludes net earnings of existing lines from new traffic interchanged with new railway but estimated return took such credits into account.

(c) Government were committed to the construction of the line as part of the terms of transfer of the Tanjore District Board Lines to the South Indian Railway. It was estimated that a loss of Rs. 37,500 would accrue to Government on an outlay of Rs. 3½ lakhs.

## 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 26th March, 1943, agreed, without any amendment, to the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, to continue for a further period of one year the additional duties of customs imposed by section 6 of the Indian Finance Act, 1942, to fix rates of income-tax and super-tax, to continue the charge and levy of excess profits tax and fix the rate at which excess profits tax shall be charged, and to amend the Indian Finance (Supplementary and Extending) Act, 1931, which was passed by the Legislative Assembly at its meeting held on the 18th March, 1943."

### THE HINDU CODE, PART 1 (INTESTATE SUCCESSION)—*contd.*

**Mr. President** (The Honourable Sir Abdur Rahim): The House will now proceed with further consideration of the motion by the Honourable Sir Sultan Ahmed regarding the Bill to amend and codify the Hindu Law relating to intestate succession.

**The Honourable Sir Reginald Maxwell** (Home Member): The Honourable the Law Member has asked me to inform the House that to his great regret he will be unable, owing to indisposition, to attend the House today. A report of today's proceedings will be conveyed to him and he has every hope of being in his place tomorrow to reply to the debate on the Bill now before the House.

**Pandit Nilakantha Das** (Orissa Division: Non-Muhammadian): Sir, last time when the House adjourned while discussing this motion, I was referring to the opinions received on this subject. I propose to come to these opinions later on and shall refer only to those which will be necessary. As I want to be brief, I should like to give my own arguments first which will obviate the necessity of reading many of those opinions. Sir, this Bill is only a part of the intended Code on Hindu Law. The full Code is not before the House; here we are only to discuss a part of it, i.e., the Hindu law relating to intestate succession. But though the intestate succession be the centre of the Code, it is very closely inter-related with the other branches of the law, such as law on marriage, law on

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member must confine himself to the motion before the House.

**Pandit Nilakantha Das:** Sir, I want to point out that this Intestate Succession Bill, as a piecemeal legislation, cannot give us the entire perspective . . .

**Mr. President** (The Honourable Sir Abdur Rahim): In that case there is nothing which cannot be discussed under this Bill. The Honourable Member must confine himself to the motion.

**Pandit Nilakantha Das:** I will confine myself to the motion before the House to the extent that this Bill, as it is presented to the House, should be postponed. There are many other subjects . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member must confine himself strictly to this Bill.

**Pandit Nilakantha Das:** I do, Sir. But how can I show that this Bill cannot be considered by itself alone?

**Mr. President** (The Honourable Sir Abdur Rahim): That may be the opinion of the Honourable Member, but he must confine himself now to the motion under consideration.

**Pandit Nilakantha Das:** I am not going beyond that at all. But I want to move for postponement of the Bill for the purpose of eliciting opinion. I want to show that this interrelation is one of the reasons . . .

**Mr. President** (The Honourable Sir Abdur Rahim): He must confine himself to the motion.

**Pandit Nilakantha Das:** Then, shall I not say how . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The motion is that the Bill be referred to a Joint Committee.

**Pandit Nilakantha Das:** I simply say that it is not possible to go on with

**Mr. President** (The Honourable Sir Abdur Rahim): I have given my ruling.

**Pandit Nilakantha Das**: I appeal to you to consider . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): I want the Honourable Member to conform to the uniform practice of the House.

**Pandit Nilakantha Das**: I am not going to discuss other parts of the Code. I am going to point out that this part in itself is impossible to be considered now on account of certain circumstances.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member cannot discuss any other question.

**Pandit Nilakantha Das**: I am not going to discuss any other question. I am just pointing out that it includes such things as adoption but unless the part of the Code incorporating the law of adoption is before us, we cannot consider how adopted sons, included in this Bill, would be dealt with. Will adoption require daughter's consent, for the daughter . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The law of adoption is there. The Honourable Member can proceed on the assumption that it is there.

**Pandit Nilakantha Das**: The Code is intended to be completed . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): But the other parts are not before the House. If the Honourable Member will not conform to my ruling I will have to ask him to desist from his speech.

**Pandit Nilakantha Das**: I wanted to point out . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member cannot dwell on other matters.

**Pandit Nilakantha Das**: Then I simply say that the entire perspective is not before us and unless all the parts which are inter-related are before us, we cannot usefully consider the Bill as it has been presented before this House.

Then this intestate succession Bill affects only so far as the separate property of a man is concerned. This is called 'heritable property' in clause 2 of the Bill. It is said there that heritable property means property which belongs to an intestate in his or her own right and passes by inheritance as distinct from survivorship. Property governed by the Mitakshara school of law will not be affected unless it is self-acquired property. It is only certain properties under the Dayabhaga school that will be affected by this law as heritable property. Heritable means, where a man has the power of will. Practically, roughly speaking, under this Bill about 10 per cent. of the property inherited in the country by the Hindus will be affected and this ten per cent of property is today governed by the Hindu Wills Act. Even out of this ten per cent. the agricultural lands are not covered by this Bill. Agricultural land, though it may be heritable property, cannot be governed by this Act.

**Mr. President** (The Honourable Sir Abdur Rahim): That has been pointed out by everybody as defining the scope of the Bill.

**Pandit Nilakantha Das**: For this agricultural property, other supplementary Bills will have to be enacted in the provinces and it has already been pointed out that those supplementary Bills cannot be enacted by the representative Houses in the provinces for a very long time. It will be very outrageous if in matters like this the Governors are asked to legislate under section 93. This is one of the reasons why this Bill cannot be considered now. It is only when the constitution works in the provinces that this Bill can be considered.

Then again there are two ways provided in the law for enacting such legislation. This succession as well as agricultural land both come under the purview of the provincial legislatures. Succession has been taken out of the concurrent list. Now, the Central Legislature is enacting this law under the authority of No. 7, concurrent list, succession, etc. of the 7th Schedule of the Government of India Act. The Central Legislature has no power to enact laws with regard to agricultural land, but the provincial legislatures can enact both on agricultural land and on succession, succession being included in the concurrent list. Agricultural land is in the provincial list. Item No. 21, 7th Schedule and succession is on the concurrent list. Therefore the Provincial Legislature is competent to legislate on both these matters. So, complete legislation on a subject like this



[Pandit Nilakantha Das.]

can be made by the provincial Assemblies. Hence the natural and reasonable course would be to wait till the provincial Assemblies are in a position to enact such legislation. Thereby we should also have waited to see if the representatives in the provinces want such a law.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has said that already more than once. He cannot go on repeating the same arguments.

**Pandit Nilakantha Das:** Otherwise, if the Central Legislature had to enact on a subject like this, there is the provision under section 103. I am not a lawyer myself. I trust you will bear with me. This is what section 103 of the Government of India Act says:

"If it appears to the Legislatures of two or more provinces to be desirable that any of the matters enumerated in the Provincial Legislative List should be regulated in those Provinces by Act of the Federal Legislature, and if resolutions to that effect are passed by all the Chambers of those Provincial Legislatures it shall be lawful for the Federal Legislature to pass an Act for regulating that matter according, but any Act so passed may, as respects any Province to which it applies, be amended or repealed by an Act of the Legislature of that Province."

The Central Government therefore ought to have waited for the provinces to make requisitions at least. It would be the same thing if the 11  
12 Noon. Provinces had passed the law themselves. Or, if all the 11 Provinces had made requisitions to the Central Government, then also it would be quite clear that the public representatives in the provinces wanted such a law. So, the only course open to the Central Government in that case would have been to wait for requisitions from the provinces. The Central Government as such is not quite competent, therefore, to give us a Bill like this. Suppose the country wants it, then it would have been passed in the 11 provinces or the Centre would have received requisitions from the 11 provinces. Then there would have been no question of any public opinion worth the name, because the opinion expressed by the public representatives would have been the best proof of the fact that the country as a whole wants it.

Now, instead of this constitutional machinery being availed of for ascertaining the opinion of the country on the subject, we have been given a Committee of four experts. I have very great respect for those experts who sat on the Committee. They are very clever men and they have said so much in so few words. Their report extends to only 20 pages and the Bill consists of 23 clauses. It is a 'miracle', in the words of John Mayne, one of the greatest authority on Hindu Law and usage, and they think they have achieved a miracle. Sir, I have very great and innate distrust of experts in industry as well as in law, which is before us today. Expert opinion cannot be a substitute for popular opinion in the country. I know here our experts are lawyers and lawyers who scan the law and become experts are to be suspected in matters of legislation and especially where reforms are concerned. They are by the very virtue of their profession incapable of tackling reforms in matters of legislation. There was a similar Bill which was discussed in the House of Commons in 1922 and it included intestate succession and it actually abolished the law of primogeniture. I am referring to Commons Debates of 1922, Volume 154, page 106. Sir Leslie Scott, the then Solicitor General, who was addressing the House on that Bill, towards the latter part of his speech said:

"My own profession the bar, I have put last because we are always suspects particularly when we pose as law reformers."

In a matter where religion and customs of the country are involved, we should not enact such laws in such a hasty manner in the name of reform and under the authority of expert opinion. It is an outstanding fact that the whole system of Hindu law is based on religion. Whether we agree with certain institutions of our religion or not is a different matter altogether, but the fact remains that the majority of Hindus, perhaps 99 per cent of the 300 millions of Hindus, believe that our law of succession has a very intimate connection with our religion. All over the world in ancient times religion was the basis of succession, so it is said. Mr. Rajkumar Sarvadhikary, perhaps the greatest authority on

Hindu law of inheritance, says this in his book, "Principles of Inheritance", Second Edition, page 9:

"There does not seem to have been much difference in this respect between the Roman and the Hindu system. He, who inherits the property, says Vishnu (the Hindu law-giver) shall also offer the funeral cake. A son must present this cake even if he does not get any portion of his father's property. By the law of Romans also the son was compelled to pay homage to his deceased father in the shape of certain funeral ceremonies even if he did not obtain any property from him. The Hindu system went further and laid down as an imperative rule that the right of inheritance of a dead man's property is exactly co-extensive with the duty of performing his obsequies. The devolution of property depends upon the consequence to perform the obsequial rites of the deceased. They cannot be separated."

Of course, in other parts of the world the system has been and is being changed, but be it unfortunately for the so-called reformers or fortunately for the orthodox Hindus, it is still a living force, a force which is responsible for the development of Hindu law in this country. If you want to change the law, as you want to do by this Bill, is it not necessary that you should first try to reform the Hindu religion and religious beliefs? It is evident that this Bill is only a fraction of the law. The whole scheme is there and we are going to change only the central part of it in this Bill. This is not the proper way to do it.

Our inheritance is based on religion. People believe that religious usages are the bases of our laws in which our law-givers have adapted their interpretations to different circumstances. Hindus believe these law-givers to be the highest religious authority and they believe it to be the duty of a successor to give *pindam* i.e., offerings to the departed. Therefore it is not easy to introduce drastic changes in our scheme of succession. As I have said before, the Government have not taken the course of waiting for requisitions from the Provinces nor have they allowed the Provinces to pass their own laws, which they are competent to do. We are, instead, presented with a *via media* of a Bill like this in this House. And this *via media* means nothing except brain waves of some seekers of cheap popularity, sanctioned by so called experts. Let us now see what our experts have done, and on what evidence they have depended as given in their report?

To frame a code, I am afraid, has been held throughout the world to be a very difficult and arduous task for Governments as well as for Legislators. Our experts in their small report have recorded that it was found to be very difficult even in countries like Switzerland and Japan which are homogeneous countries and have no personal laws like our own. As a matter of fact, Germany and some other countries took about 20 years and in certain cases about fifty years, in spite of the fact that they had enormous organisations for enquiry, for report, for collection and for revision, and then only they came to certain codes in these and other homogenous countries. In India, however, attempts are being made from the days of Lord Macaulay, the first Law Member of the Government of India. Here I may quote what he said:

"We are commanded by Parliament to ascertain and digest the laws of India. The assistance of a Law Commission has been given to us for that purpose. As soon as the Code is promulgated, the *Shastras* and the *Hedayas* will be useless to a Munsif or a Sadar Amin. I hope and trust that, before the boys who are now entering at the Madrasa and the Sanskrit College have completed their studies this great work will be finished."

But the work, if undertaken at all, was never finished, and the Law Commission, in their report dated the 13th December, 1855, abandoned the attempt on the ground that it would arrest the development of Hindu Law. Please mark those words: Their opinion then was that it would arrest the development of Hindu Law.

Then again in 1878 it was said by a man who is professed to be one of the best authorities on the Hindu Law,—I mean John Mayne, whom I have already referred to,—that it is a miracle, and the days of miracles are over. To put the Hindu Laws in one Code. To put the Hindu Personal Law into one Code, would be practically impossible and if an attempt is made and the Code becomes a Code at all, it will more confuse than give any unity and simplicity to the Hindu Laws. The quotation is there in the Preface to the First Edition of his: 'Hindu Law and usage'.

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And then again this very same question came up in this House for discussion in 1921. The then Law Member Dr. (now Sir) Tej Bahadur Sapru, said in these words in reply to the debate on behalf of the Government. He said:

"Now, what I propose to do on behalf of the Government in a matter like this is that we shall address the Local Governments and the various High Courts, various learned bodies, Bar Libraries and legal organisations and ask them to advise us as to whether in their opinion, in the first place, the time has arrived when a serious and organised effort should be made to codify the whole of the Hindu Law or any portion of it, and, if so, on what lines we should proceed. And we shall further ask them as to whether in the event of their being of the opinion that we should make an attempt like that what should be the composition of any Committee or Commission that we may appoint. Until we have reached that stage, I think it will be recognised that it is impossible for me or for any other Member of this Government to give a more decisive reply."

He contemplated further that there should be a Commission in all the Provinces and upon their report a co-ordinating Committee in the Centre will sit in judgment and they will give a further revising report on which a legislation will be undertaken. It is so arduous a task and even today it so remains and our experts in their small report have admitted the difficulty. They have said, rather quoted in main or have referred to some of those quotations that I have already given, and they have admitted that it is so. But after all this they say that times have changed. A very simple but very pathetic argument indeed. 'The times have changed'. Yes, they might have changed. But this is not at all a convincing reply here. We cannot go on reforming on the strength of some platform speeches of some of our reformers in the country. We must get some tangible evidence by which we could convince ourselves and the public that there is a real demand. Simply because by Members from Dr. Deshmukh to Mr. Santhanam or from Mr. Gadgil to some other Member there are some Bills given notice of according to their own lights or spirit or idea of reform, that is nothing in considering whether in a code the Hindu law is to be modified like this or not.

I was just referring to the English law on the subject. In 1922, a law of succession was enacted in England and some definite steps were taken there for ascertaining whether property holders wanted such a reform. Similar steps might have been taken by the Government of India. We have the Indian Wills Act and any man having heritable property either agricultural land or otherwise, moveable or immovable can will it away. We always say that had the owners willed away their property, they would have most probably willed it away in this particular fashion, in the manner in which we are providing in this measure of reform. That is the basis of our legislation, that is the basis of the Bill. For a good number of years, the Indian Wills Act, is in operation in this country. Did the Government enquire whether the Hindus availed of this Act greatly? Had it been so, it would be evident if they wanted a change. Then again if they have availed of this Act largely, statistics should be obtained as to in how many cases they willed away their property to whom and in what particular fashion or manner; whether they give it to the daughters or daughters-in-law or to whom? Whether they give absolute or limited interest to women and widows? That would give us the criterion for a change in our law of succession. We are going to deal with properties of people who are private owners and so long as private property remains in the country, it must be considered sacred and there is no gainsaying the truth that our law should generally and mainly, I am watering it down for making room for reforms, mainly, not absolutely, and generally follow the lines of the intention of those that are the owners of these properties. Under the influence of a reformer here or a reformer there, Government is not going to equally divide all lands, for the time has not yet come. Under the influence of reformers like these the Government or the Legislature should not handle so grave a subject, so important a subject in this manner in the name of reform. At least the Committee must have demanded from the Government reliable statistics in this matter as to what extent our people have availed of the Indian Wills Act and if they have availed of the same, to whom they have willed away their

property. That would be the only criterion by which you can judge the basis of the Bill, not on the opinions of some reformers who say in a pathetic language that the times have changed. What did the English people do? They passed recently an Act in 1926 and this was first introduced in 1922. In England, their own law of succession was according to primogeniture and there was also a law for making wills. It was found that in almost all cases the property owners willed away their properties and they willed them away not in favour of the first sons, but in favour of other children. So there was a demand. In Vol. 154, of House of Commons Debates, page 99, Sir Leslie Scott, the Solicitor General of England says:

"It is an interesting fact referred to in the Memorandum that the proposals of the Bill in regard to what is to be done with property on intestacy are, in the main, based upon an examination of a very large number of wills at Somerset House. The House is asked to do what evidence indicates intestates would do, if they made their wills and did not die intestate."

It is now clear that there are ways and means of obtaining direct evidence whether this change is called for in succession law of the Hindus. I do not base my argument only on religion, nor do I say that reform is not desirable. My only position is that you must simply ascertain whether the country wants this reform at all. There are so many constitutional ways and other ways of ascertaining the views of the public. Statistics can be obtained to find out how many people want to make a will, if they do not like the present mode of succession. Then, again it should be ascertained whether they will it away to their daughters half a share or even full share. It is only then you can say whether the property owners in general want this reform in succession, and what is the change needed. That would then be clear and then there would be no opposition to the measure. In that case all opposition would be stifled. But you have taken no steps to ascertain the views of the public.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has been repeating the same argument so many times, again and again.

**Pandit Nilakantha Das**: It is perhaps very difficult for me to understand this and therefore I am repeating to learn it.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member cannot repeat his arguments.

**Sir Muhammad Yamin Khan** (Agra Division: Muhammadan Rural): Does the Honourable Member think that the views of women should never be heard?

**Mr. Jamnadas M. Mehta** (Bombay Central Division: Non-Muhammadan Rural): From behind the purdah?

**Sir Muhammad Yamin Khan**: Purdah or otherwise.

**Pandit Nilakantha Das**: The words of women, the words of blind sons and of everybody should be heard. But where are those words? There is a particular way of ascertaining those words. I only want evidence that women want it, blind men want it, or even those who have got property want this reform. You have clear ways of showing this, but you have not taken the necessary steps to do this. That is all what I mean to say.

**Mr. President** (The Honourable Sir Abdur Rahim): There are other Honourable Members who are very anxious to speak.

**Pandit Nilakantha Das**: Very well. If that is the desire of my friends I am not going to the Bill, for that will take a very long time. I am simply speaking in favour of postponement. But I find it is rather impossible for me to proceed.

(The Honourable Member paused.)

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member is supposed to go on with his speech, so that other Honourable Members may have a chance.

**Pandit Nilakantha Das**: I simply give my arguments for postponement. I will not go into the merits of the Bill.

**Sir Muhammad Yamin Khan**: We would like to hear your views.

**Pandit Nilakantha Das**: Anyway, I will not quote any more of the opinions. I have already quoted enough to show that this Bill should not have been proceeded with.

[Pandit Nilakantha Das.]

Sir, one of my main arguments is that there are no Hindu members in this House . . . . .

**Mr. Jamnadas M. Mehta:** We are also Hindus.

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions: Muhammadan Rural): But who is to blame?

**Pandit Nilakantha Das:** Whoever may be to blame, our property-owners should not be punished; whoever may be to blame, the Government and the Legislature should look to the interest of property-owners. We must ascertain their opinion. We should have got some help if the House had been fully represented. Now our friends in the Congress Party are not present. On the Government side also, the proportion of Hindu element is not good. Today they are in minority, and I should at least like to see that before this Bill is proceeded with the Hindu element in the Government should be as it ought to be, otherwise the Government has lost much of its competence to put this Bill before this House. Now, I come to opinions . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): No. Opinions have been quoted. They are before the House.

**Pandit Nilakantha Das:** I have got other opinions . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Does the Honourable Member mean to say that he wishes to read opinions other than those which have been circulated?

**Pandit Nilakantha Das:** I am not going to read them.

**Sir Muhammad Yamin Khan:** Are these opinions the same which have been circulated?

**Pandit Nilakantha Das:** I have fresh opinions. I am saying that in my opinion the majority are against the Bill and I can tell you how I have ascertained that. High Court Judges and Advocate Generals are generally against the Bill, or they have given no opinion. Now, I come to the opinion of Veer Savarkar, the President of Hindu Mahasabha, than whom there is no greater man to express opinion on this Bill. He has wired to me thus:

"Copy of my telegram to Law Member sent to you. I urge all Hindu Members to press postponement."—

Here is his telegram to the Law Member:

"In view of many collected opinions unfavourable to the Bill making alterations in Hindu Law and the poor attendance of Hindu members in present Legislature and scant public attention to the Bill in these politically troublous times, I urge that the Bill be postponed during war time."

So far as the opinion of Hindu men is concerned, he is the right type of Hindu to give an opinion.

As regards ascertaining the opinion of our women, they have to be cautiously asked and their opinion should be cautiously heard, for our women have not come up to that general standard where they can give opinion on matters of this kind. There are many reformers—some of them women also—but we should not judge our women by their cosmopolitan habits, by their attending big parties and by their knowledge of the etiquette of lighting not more than two cigars or cigarettes with one match, or . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member must confine himself to the motion before the House.

**Pandit Nilakantha Das:** As to Hindu women, I will read the opinion of a really representative Hindu Lady. She is Mrs. Janki Bai Joshi, Secretary of the All-India Hindu Mahila Sabha.

**Mr. President** (The Honourable Sir Abdur Rahim): Honourable Member need not read it at length. He may mention what it is.

**Pandit Nilakantha Das:** The first thing she complains, is that the Bill has only been circulated to the public in the English language, and our women are not expected to know what the Bill is. She urges that it should be translated in all vernacular languages. She says:

"To put the present Bill affecting the Hindu community alone before the present Legislature for discussion and sanction when most of the Hindu members are absent will not be in the interest of Hindu women."

Again she says:

"It is the intention of the Government to postpone measures which are not required for war purposes to such times when the normal conditions are restored."

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member is repeating his arguments.

**Mrs. Renuka Ray** (Nominated Non-Official): Sir, may I interrupt just to say that there are hundreds of opinions in favour of this Bill and it is not possible for all those opinions in favour to be read out, but the one or two opinions of women against it are being read out. We should remember that there are many more opinions in favour as there can be against.

**Pandit Nilakantha Das**: Yes. There may be many more opinions, but her opinion is the representative opinion of Hindu women.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has said that many times.

**Pandit Nilakantha Das**: Sir, I must reply to her.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member is not progressing at all.

**Pandit Nilakantha Das**: Then she goes on to say:

"The Hindu Mahila Sabha, after full discussion in the meetings held for the purpose submitted these opinions of the Hindu Women. . . ."

**Mr. President** (The Honourable Sir Abdur Rahim): I must ask the Honourable Member not to read long extracts.

**Pandit Nilakantha Das**: Then, the President, Panchayet of Sind has, in the self-same lines, sent a long telegram to Mr. Lalchand Navalrai, of which a copy has been forwarded to me. They give the same opinions with detailed arguments.

Now, I must conclude my speech so as to give my friends an opportunity to speak. I may be taken to have stood in their way so far. But I say that on these grounds at least, if not on any other grounds of religion or orthodoxy, which may be controversial, the consideration of this Bill should be postponed till after the war. Already the Government have uselessly spent a lot of taxpayers' money in setting up a Committee and giving them a few Bills to consider and making them produce a report of 20 pages. It would not be advisable to waste more money on Joint or Select Committees, for I believe nothing useful will come out of this Bill; and in the meantime, if the Government want to do a service to the Hindus, they must proceed in the proper manner, if it is at all possible during war time, and they should see to it that the provisions in the Bill are based on the properly ascertained demands and desire of the people.

With these words, Sir, I move my amendment.

**Mr. R. B. Gupta** (Cities of the United Provinces: Non-Muhammadian Urban): Sir, I have heard the debate on the Bill with the attention and sympathy it deserves. Honourable Members, Sir, have tried to base their remarks on the support of a Party which is not present in the House. I submit, Sir, that it is not fair to drag in their names when they are not in a position to give their opinion. Secondly, Sir, I have seen that somehow or other the discussion over this Bill has proceeded on lines to make one believe that there is really some conflict or misunderstanding between two sects among Hindus. This is a very unfortunate position. I am also a Hindu and I know that it is not fair for our womanhood to give the idea that they have any discrimination between their sons and daughters. Thirdly, Sir, I have to point out that I am rather shocked to see that the House is not taking the provisions of, and the discussion on, the provisions of this Bill with that serious attention as it should, considering the effect and the importance of its provisions. I want Members present in this House to take the provisions of the Bill seriously. After all, they are not so insignificant or so unimportant that they can be treated so lightly as I have noticed since the day the debate began on this Bill.

Sir, so far as the principle of the Bill is concerned, I am in agreement with the framers of the Bill. I admit, Sir, that the question of right in property for our womanhood is very important, and it must be conceded. All the same, I find that the provisions have been framed in a way that they go far beyond what

[Mr. R. R. Gupta.]

is actually essential or what is sufficient to meet the necessities of the times. I know, Sir, that the provisions of the Bill will get due consideration in the Joint Select Committee, but considering the importance and far-reaching effect of those provisions, I think it is essential that their effect should be clarified at this stage in this House so that those provisions may be before the public to enable them to form their opinion and also that the Members may get an opportunity to consider them from the point of view which I want to place.

Sir, in clause 5, in class 1, those parties which have been included are widow, daughter, daughter's son, son's daughter, daughter's daughter. I maintain, Sir, that if we allow only the widows and the daughters our point will be served.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member ought not to discuss the clauses of the Bill in detail at this stage.

**Mr. R. R. Gupta**: Sir, so far as the principle of the Bill is concerned, I have already said that I agree with the principle that the widow women and the daughters should be allowed . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): That is the scope of the discussion on this motion.

**Mr. R. R. Gupta**: Very well, Sir. But I am opposed to the principle that the property should be divided in such a way that nothing should be left for the sons after one or two generations. The provisions, as they are framed, are liable to finish all the property of a father after two generations. Furthermore, my submission is that the benefits of property should be allowed only to the daughters and not beyond that. After all, those daughter's sons and daughter's daughters will get the benefit of their father's and grand-father's property. Besides, provision has been made in this Bill that the property belonging to the mother should go first to the daughter's side. I think that is also very unfair, for the mother, her son and daughter are in the same category. I have accepted the principle that our womanhood does require encouragement and they must not be allowed to remain in the position where from their birth they start feeling an inferiority complex in their own father's house. Also I agree to this principle because I find that if we allow the right of property to be given to our daughters also, our motherhood will subsequently improve; but at the same time we must not forget that it is the present system of our Hindu law which has preserved the solidarity of our families for the last two thousand years and more, in spite of the severest attacks over its existence. Therefore, my submission is that very full consideration should be given to the provisions of this Bill.

Secondly, I submit that the publicity given to this Bill is not sufficient. As a matter of fact when I first came to this House I myself did not know that any such Bill was coming up for consideration. Therefore, enough publicity should be given and enough public opinion should be obtained before the Select Committee for deciding questions in their proper perspective.

Thirdly, I would like to know whether the object of this Bill is to give retrospective effect or it will be brought into force only from the date on which it is passed. I submit that it should not be given retrospective effect; otherwise it is liable to affect many calculations of many families very badly and adversely. With these words, I support the motion to send the Bill to Select Committee.

**Mr. Govind V. Deshmukh** (Nagpur Division: Non-Muhammadan): Sir, I have heard with great attention the objections that have been taken to the motion. The opposition can be divided into several parts.

First of all, they say it will lead to the breaking up of the society. In other words, they say that today the society that exists is the same society that existed before in the days of Manu and that it has not changed in any way. Now, if they will look back to the structure of society in the days of Manu, they will see that the structure of society then was the *chatur-varna*—the four *varnas*—and the four *asramas*. Today there is only *varna*—if you apply the tests of those days—and that is *Sudra*. If one were to take into consideration the injunctions and the obligations that have been laid down for the different *varnas*, one can only say that there exists now, only one

*varna*; and there existed only the *Grihasta Asrama*—no other *asrama*, neither the *Sanyasa Asrama* nor the *Vanaprastha Asrama* exist; and if that really had been followed, my friend, Pandit Nilakantha Das, would have been in the forest and not in this House to deliver his remarks on this Bill. (Interruption.) The structure of society has, therefore, changed. This society has existed because it has adapted itself to different circumstances; a living organism can only exist and does exist by adapting itself to the several circumstances that crop up from time to time.

The principle of any legislation should be that it should not be against any public policy, that the legislation should be in the interests of the public in general if it is a general legislation, and should be in the interests of the community in particular, if it is for a particular community. I have not heard how this particular legislation is going against any of these principles.

The other objection that has been raised is that there was no demand and there has not been sufficient time for publicity or the public to think over the matter. This question of whether women, and particularly daughters, should be given any right or not, has been agitating the minds of the people since the days of the Deshmukh Act—the Women's Rights to Property Act. In the original Bill the daughters were included. In the original Bill absolute estate was given. Those were very quiet times and the people had expressed themselves in favour of it—the majority were in favour of it. It was unfortunate then that the Government was not so minded as to go with the progressive opinion in the country. Apart from that, this question of women's rights has always been before the country. For instance, Mr. Datta, the Deputy Speaker, had brought a Bill; Mr. A. N. Chattopadhyaya had brought a Bill and so it cannot be said that this Bill has been sprung all of a sudden on us; the people had quiet times to think whether daughters should be given any interest or not; and what interest they should have in the property.

The point has been made that a majority of the Hindus are absent in this House. When they say the majority of Hindus, they evidently mean and refer to the Party which contained a majority of the Hindus, that is, the Congress Party. That was a Party which was progressive: it was progressive in politics and it was progressive in social reform. And those who are in the vanguard of politics can never be in the background of social reforms. They had, in co-operation with the women, to work for the good of the country; and when they were seeking the co-operation of the women and when the women were in the forefront also and working side by side with them, no legitimate rights could under any circumstances be denied to them.

You will see that I am not wrong in saying that the women identified themselves with the Congress movement and the Congress identified itself with the women's movement. Apart from this Bill to which I made reference, a Resolution was adopted by this House when the Congress was attending the Assembly, on the Bill for maintenance and residence. The Resolution was adopted, and on that body which was constituted during the regime of Sir Nripendranath Sircar, and some credit should be given to him for having sponsored the cause of women because it was due to him, though to a limited extent, the rights of women were granted by the Deshmukh Act. But for his co-operation and sympathy, I do not think the House would have succeeded in getting for women the rights that they have secured. This Resolution was passed, and on that Resolution there were two women legislators; one was Mrs. Subbarayan who was a Member of this House (*An Honourable Member*: "She is.")—she is not at present attending unfortunately; and the other was Mrs. Munshi, who was again a legislator but belonged to a province; she was a legislator in a province. Now, it was rather an unfortunate circumstance—I do not wish to justify or condemn the steps which were taken in boycotting this particular committee. But they could not attend and no effect could be given to that Resolution; but I am showing that the Congress was ~~one~~ with the women's demands and they were more particular to remove such economic or social grievances which came in their way, in their uplift.



[Mr. Govind V. Deshmukh.]

Now, apart from the fact that this question was agitating the minds of the public and of men and women in the Hindu society since the first Bill, the Deshmukh Act, was introduced, this matter has been before the public always. This Rau Committee had issued a questionnaire, a very long questionnaire and they got replies. Afterwards they drafted the Bills. The Bills were circulated; public opinions were sought and called for and the opinions have been submitted. I cannot, therefore, think of a motion for circulation of this Bill as anything but a dilatory motion. I cannot think what better purpose can be served. It cannot be that we have not received sufficient public opinion regarding this Bill. Therefore, I submit that there is no necessity for sending this Bill for circulation to elicit public opinion. If at all any necessity is felt by some

that further opinion should be taken, I think after this debate and  
1 P.M. before the holding of the Select Committee meetings there will be sufficient time for the public to give their opinions. After all, the Bill is not a very long one, it contains a few sections, and it should not be difficult to give an opinion.

**Babu Baijnath Bajoria** (Marwari Association: Indian Commerce): How will their opinions be taken and considered?

**Mr. Govind V. Deshmukh:** The Select Committee meeting will be there, and this Bill also will be discussed on the floor of the House. You can move amendments. I do not think that members on the Committee will be so unreasonable; don't start with the prejudice that the reformers are westernised persons. You must consider that they think just as much of their society as you do. May be, your views and their views do not coincide, may not be identical, but why do you think that your view is correct and their view is wrong? Why should it not be otherwise? I have shown that our society has not been static or hidebound from the days of Manu, it is expanding itself in all directions. Therefore, to say that persons who advocate reforms have not the interests of the Hindu society at heart is to show very little consideration for their views. The opinions that I hold in my hand are not the opinions of only westernised Hindus. You will find that Judges, lawyers and other individuals who are in favour of this Bill are men who have spent their life in India. One should not also run away with the idea that there would be no changes in the Bill as it has been brought forward. The Bill that has come up is likely to undergo some changes. If, therefore, persons have got anything to say, the matter can be considered in the Select Committee if you would be vigilant enough to put forward your views; if you wish to sleep, don't blame others. Then there would be time enough for this Bill being amended in proper form. There will be time enough when the Bill comes in the August Session for amendments, if they are proper, to be adopted by this House. Don't start with the idea that except yourself everybody else is unreasonable.

**Babu Baijnath Bajoria:** Whom are you referring to by saying, "you"?

**Mr. Govind V. Deshmukh:** I am referring to those persons who oppose on the ground that these views are the views of persons who have advanced views or whose views do not coincide with their own. They should not think that other persons or other Members in this House are so unreasonable that they will not be reasonable enough to adopt your views or ideas provided they are reasonable or equitable, provided they can be justified on the ground of justice, equity and good conscience,—in the interests of the society, if you please.

It was also asked whether there was any demand for this law. I have already explained that the general question has been the subject of agitation for a long time, but even as regards this particular Bill the women want it. Six associations of women want this Bill to be passed as it is. I do not say that there are not individual women who want certain amendments, not that there are not women and men who would like to have the section about *stridhan* and heirs to *stridhan* to be modified, not that there are not men and women who would like the order of succession to be a little different. That

is a different matter. But, so far as the broad principles are concerned, all branches and all organisations of women have accepted the Bill *in toto*; they want it to be supported as it is.

This Bill gives us a uniform law. It is curious that in different provinces the right of women are different. It is curious to see—and it may be an interesting point for Historians or Sociologists to investigate—that women in Bombay Presidency enjoy better rights; for instance, when the daughter steps in as an heir, she inherits absolutely. Again, a woman could adopt a boy without the consent of her husband. These are some of the instances which occur to me now, which show that women exercised greater powers over their property and in other matters which are necessary for a family life. In other provinces women's rights have been very much restricted. If we have a uniform law—and it is necessary in these days—governing the whole community, it would be something which will create a sense of unity amongst the Hindus. As a matter of fact, one of the necessary things which go to make a nation is one uniform law. If we have got this uniformity all over the country, then we can very well point to some law which affects all the Hindus in a uniform manner. Let it not be said that the old thing can continue any longer. In the old days when society was agricultural, when people were tied down to their lands for the purpose of agriculture or for the purpose of security, because in those days I suppose it was a period of constant fighting—people had to stay in one place. But now, when members of a family split up and go in search of jobs all over the country, you cannot have the same law. Law needs change and if persons from one province go to other provinces, they cannot carry with them the same *lex loci*; in other words, they cannot carry with them the law of their own province when they go to a different province and stay there for years together. So, it would be better from the point of view of succession to such persons to have a uniform law.

**Babu Baijnath Bajoria:** May I ask one question? Can you apply this to Britishers who come here and stay in Hindustan and own property in this country?

**Mr. Govind V. Deshmukh:** Unfortunately, they are not Hindus; otherwise I would like to. If my Honourable friend can get those people turned into Arya Samajists, I will be the first to have this law applied to them. But the misfortune is that your society is such that it will not take in people,—a thing which was followed in days past. You will not expand your society. You isolate yourself,—that most unfortunate thing that the Hindu society started recently about two hundred years ago. If you read some of the Smritis, the Rishis were very wise. In a province like Sind there was a Rishi called Deva, and he wrote Deva Smriti, in order that people who were forcibly or otherwise converted may be taken in but you became such a crystallised society afterwards that you are not taking in any people. You have isolated yourself.

**Mr. Lalchand Navalrai** (Sind Non-Muhammadan Rural): We took in Sanjogis also.

**Mr. Govind V. Deshmukh:** It would be very good to have this law affecting all persons who are Hindus as defined in the Act. The advantages of a uniform law are immense.

Now, Sir, during the course of the debate it was pointed out by several speakers that if you give shares to the daughters, the sons and the widow, the agricultural property would be divided into so many fragments and they said that taken from that point of view it was not advisable. They say that agriculture itself is not paying and you would be introducing strangers when you give rights to the daughters. These questions were also before the public when the Deshmukh Act was introduced and when I went through public opinion at that time I had dealt with these two points. It is not something which has suddenly cropped up just now. The difficulties of fragmentation of agricultural holdings because of the partition between the different brothers or the father and the sons came into existence. Now, in my province, at least, there is a law which consolidates holdings. If there are difficulties which crop

[Mr. Govind V. Deshmukh.]

up, then it is not beyond human ingenuity to get over them. As I have said, the Consolidation of Holdings Act enables parties to get over the difficulty of fragmentation. Take the question of introducing strangers. That again can also be got over by giving the co-sharers the right of pre-emption, so that the strangers cannot get it. Persons belonging to the family should have the right of pre-emption. Now, agricultural holdings are cultivated as tenancy farms and if a person wishes to part with his share, the person who is left has the right of purchasing the rights of the outgoing tenant. It may be said that under those circumstances the stranger would be demanding a very high price and it would not be possible for the person belonging to the family to purchase those holdings. This difficulty also can be got over.

**Babu Baijnath Bajoria:** Then you are against fragmentation of property and against introducing strangers?

**Mr. Govind V. Deshmukh:** I say that the difficulty of fragmentation can be got over. It ought not to prohibit anybody from giving the daughters' share. That ought not to stand in your way in giving them their rights. The question of fragmentation ought not to frighten you into disallowing them their rights.. That is all I say.

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

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

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

**Mr. Govind V. Deshmukh:** Sir, before the recess hour, I was going on with two objections which were prominently put before those persons who wish to support this Bill.

**Dr. Sir Ratanji Dinshaw Dalal** (Nominated Non-Official): Sir, there is no quorum.

(After the Bell rang, there was quorum in the House.)

**Mr. Govind V. Deshmukh:** I was discussing the question with which the supporters of the Bill are supposed to be faced with, the question of fragmentation of holdings, and I said that that question was one which has been got over and could similarly be got over in this particular case by an Act as there has been an Act for the consolidation of holdings. I further said that if it was feared that some stranger would be introduced if the share was given to the daughter, I was suggesting that that fear could be got over by means of the right of pre-emption which is given to a tenant in common when one tenant wishes to go out and dispose of his holding. A similar provision is found in the Tenancy Act of the Central Provinces. For instance, if an absolute occupancy tenant wishes to part with his holding, then the Malguzar, the landlord of the village, has a right of pre-emption. Then the question is raised or will be raised in this particular case that a stranger or the person who wishes to alienate the property to a stranger may ask for a fabulous price. Just as has been done in that case, a provision could be made in this particular case also and a court could be appointed to fix the price for pre-emption. All these questions which are raised just to frighten us could be got over, as I said, by legislation and all other difficulties could also be got over by the necessary legislation.

Then, we were told that women are incompetent to manage their property. If it is a question of the illiterate women whom they have in view, then there are illiterate men also who cannot manage their property and others are required to manage their property. You on that ground do not disqualify men. Now, if it be also urged as an argument against giving the daughters any share that they would be alienating the property to strangers or to any persons out of caprice, then I may say that there is the Contract Act which invalidates all transactions which are brought about by undue influence or coercion. So, let us not be frightened with the skeletons in the cupboard which they point to and let me say this that we should not be deterred from granting the daughters

their legitimate rights which this Bill proposes to give. These fears of incompetency, strangers being introduced or fickleness of women, which, according to them, is proverbial, should be brushed aside.

Now, Sir, after I have gone through the principal objections that have been raised, there can be no valid objection to the rights being granted to the daughters. As I said in the very beginning, the Congress is with the women. As a matter of fact, when I say the Congress is with the women, I mean that Congress is for all advanced and progressive measures. The Congress has been for progressive legislation. Take the question of the validation of the Aryan Marriage Act. Is it conceivable that but for the support of the Congress that progressive measure would have been passed? I do not think so. And yet it was a necessary and progressive measure. Let me give another instance. The Muslim Dissolution Marriage Bill which was passed into an Act was also passed principally through the support of the Congress. In fact, the sponsor of the Bill, Mr. Kazmi, was a gentleman who belonged to the Congress. But for the Congress, that Bill also would not have been passed into an Act. The Deshmukh Act, to which I have already referred, would also not have been passed but for the Congress support. So, the Congress support is there for all progressive measures. Let that be taken for granted. And the Congress is with this Bill also in spirit as has been evidenced by several activities of theirs. If I forget not, the National Planning Committee also came to the conclusion that Hindu women should be given these rights which find place in this codified Bill. The President of the National Planning Committee was Pandit Jawahar Lall Nehru and he is now detained in jail. So, I do not think that any purpose would be served by circulating this Bill for public opinion. I, therefore, lend my full support to this Bill. I said it before and I say it again that it should not be taken for granted that when the Bill goes to the Joint Committee, no reasonable amendments can be moved. If it is the fear of anybody that they have certain ideas to suggest or certain reasonable amendments to suggest and that they will not be accepted, then they are labouring under a misapprehension. With these few remarks, I lend my full support to this Bill and to the motion before the House.

**Babu Baijnath Bajoria:** Sir, I am neither a lawyer nor a learned Pandit.

**Dr. P. N. Banerjee** (Calcutta Suburbs: Non-Muhammadan Urban): Would you not move your amendment?

**Babu Baijnath Bajoria:** Yes, I will, with the permission of the Chair.

**Mr. Govind V. Deshmukh:** Sir, on a point of order. Can the amendment be now moved?

**Mr. Deputy President** (Mr. Akhil Chandra Datta): When the notice was given?

**Babu Baijnath Bajoria:** Sir, the notice was given yesterday to the Secretary, the Law Member, Leaders of the Parties, to the Honourable the President and to yourself. And I do not think there is any principle involved in this amendment, because there is already a motion for circulation of the Bill before the House asking for public opinions by the 31st December, 1945. So, I don't think there can be any objection.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): Will you please read out your amendment?

**Babu Baijnath Bajoria:** Sir, the amendment of which I gave notice is: that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1943.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): I think I shall allow it.

**Babu Baijnath Bajoria:** Sir, I move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1943."

Sir, as I said before, I am neither a lawyer nor a learned Pandit and as such I pray to God that He will give me courage, strength and wisdom to speak sensibly and convince the House of the remarks that I make.

*"Mukam karoti wachalam pangum langhayate girim  
Tata prasadaham wande parmanand madhavam."*

[Babu Baijnath Bajoria.]

That, God can make a dumb man a great orator: that God can make even one who has got no limbs to cross mountains. It is He who will give me courage, strength and wisdom to speak on this Bill and convince the House.

First of all, Sir, I am surprised at the attitude of the Government in bringing forward this measure which is a most controversial measure, at the fag end of the Session without giving any notice thereof. Sir, there is a rule of this House that at the beginning of each Session we are supplied with a list of official business that has to be undertaken during the Session. This Bill was circulated by an executive order even long before the commencement of the Session, so it cannot be said that this Bill was not in existence at the beginning of the Session. When the list showing Government business to be transacted during the Session was given to us there was no mention whatsoever of this Bill. Naturally, we were under the impression that this Bill will not be proceeded with in this Session. I was under the impression that this Bill will not be proceeded with during the present war, because it was not an emergent measure and had nothing whatever to do with the war effort to which the Government is concentrating all its resources. It was merely through an accident that I happened to be here when the motion for reference to Select Committee in respect of this Bill was made. I am obliged to my Leader, Dr. P. N. Banerjea, who wired to me at Calcutta and I came here. Sir, I did not know the purpose for which he sent for me. It was only on the morning of Wednesday last that I came to know that this Bill was going to be referred to Select Committee on that very day. I take a very strong exception to this attitude of the Government. I do not know what is in their minds in rushing through this Bill at this fag end of the Session.

First of all, Sir, I will speak on my amendment and I will give cogent reasons why the Bill should be circulated and not referred to Select Committee. Sir, this Bill has not been given proper publicity which it deserves. Such an important Bill as the present one deserves very wide publicity. But the Government has not done so. They simply circulated it for public opinion by an executive order, that is, through the back door. Sir, the usual procedure is that the Bill must be introduced in this House and by a motion of this House it is to be sent to circulation. But the Government did not do anything of the sort. They sent it for circulation by publishing it in the Gazette of India and the Provincial Gazettes. Sir, in these days of paper shortage, these Gazettes are not obtainable to members of the public, and I have a first hand information from persons who wanted to have these Gazettes but did not get them. So, I say that this Bill has not been properly circulated.

**Mr. Lalchand Navalrai:** Circulation means waste of much paper.

**Babu Baijnath Bajoria:** If Government has not got paper or money to acquire the paper I would ask them to open a subscription list for that purpose and I will see that that list is over subscribed within no time. Again, this Bill was published in the Gazette of India on the 30th May, 1942, and it was published in the Provincial Gazettes in some cases in the middle of June and in others at the end of June, 1942. Sir, the time provided for submitting opinions to the Provincial Governments was, if I remember aright, about the middle of August. Sir, for such an important and most controversial measure to give only one and a half or in some cases two months for giving opinions can hardly be said sufficient time. Sir, it may be argued by the Government that even after that date people could have sent their opinions either to the Provincial Governments or direct to the Central Government and those opinions would have been considered. Sir, once the people know that the date by which they are to give their opinions has expired, naturally, they will think that their opinions, if submitted after that date, will not be considered. So, they did not take the trouble of submitting their opinions.

**Maulvi Muhammad Abdul Ghani** (Tirhut Division: Muhammadan): The opinions received late are not considered by the Government.

**Babu Baijnath Bajoria:** Sir, as Maulvi Muhammad Abdul Ghani says it is a

fact that in most cases opinions which are received late are not accepted by the Government. Sir, that is the reason why this Bill was not given the publicity it deserved, sufficient time was not given. What is the result? We have got one small book containing 70 pages of opinions. This small book of opinion was received from eleven Provinces of India. Does this show that sufficient publicity was given to the Bill? Certainly not. Even on small matters of piecemeal legislation, we used to have a bundle of opinions containing 100 pages and more. Here nothing of the sort. Are we going to pass into law a measure of this nature, of such a controversial nature which strikes at the root of Hindu society relying on the opinions of these few persons? I, for one, cannot be a party to such a procedure. I would respectfully submit to the Honourable the Home Member and the Honourable the Law Member who is the sponsor of this Bill that he should take the public into confidence and accept my motion for circulation and to give this Bill as much publicity as possible before they proceed with this Bill further.

Again, Sir, Bengal, from which you, Sir, and myself come is the Province which is mostly affected. It is only there that the Dayabhaga school of law prevails. The Bill now under discussion specially applies to this school of Hindu law. In Bengal this Bill was not published in any vernacular papers. I am not speaking from memory or I am not saying anything which I cannot prove. The Bengal Government have said that the Bills were published in Calcutta Gazette on 18th June and they were not translated into any other language.

**Mrs. Renuka Ray:** If I may interrupt the Honourable Member, I have to say that these Bills were published in Bengali by the All India Women's Conference in its Branches throughout Bengal.

**Babu Baijnath Bajoria:** As regards Women's conferences, I will come to that later on. I will show conclusively that these women's conferences comprise only of a handful of women or butterflies as I call them. The issuing of some pamphlets by women's conferences or by the Sanatanists conferences does not make any difference. Sitting in the Chair, I do not know whether you can go into this technical objection which I raise whether we can proceed with this Bill in view of the inadequate publicity that has been given to this Bill.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): No objection like that has been taken.

**Mr. Lalchand Navalrai:** It is left to the Provincial Governments to do that whether they do it in English or in Vernaculars?

**Dr. P. N. Banerjee:** He has mentioned the fact that it has not been done.

**Babu Baijnath Bajoria:** I am only mentioning about Bengal. I do not speak for other Provinces. I know that in Bengal, this Bill was not translated into Bengali. I mention specifically Bengal because that is the Province which is mostly affected by this legislation. What is the necessity for hustling this Bill through? Again, I will refer to the opinion of the Government of Bengal and the opinions which were received by the Government of Bengal. They say that this is the most inopportune time to proceed with a measure of this nature. The Government of Bengal themselves say that in view of the controversial nature of the proposed legislation and the intricate questions of law and customs involved, the Government of Bengal are of opinion that the consideration of the Bills may be postponed till after the war. The opinions which have been received from other people also say the same thing. I am also of the same opinion and that is why I tabled an amendment to that effect on the first day. But unfortunately under the Rules, the Chair ruled it out of order and so, I have given this amendment. This is not a dilatory motion. I humbly submit to the House and to the Government that my motion for circulation by December 1943 is not at all a dilatory method or an obstructive method. If this Bill is to be proceeded with, I want that it must be widely circulated. The Government must take it upon themselves the duty of getting complete public opinion on this Bill and then only proceed with the measure. The Bihar Government also are of the same opinion. The Bihar Government say:

[Babu Baijnath Bajoria.]

"The Bills solely concern the Hindu community and while they embody some very desirable reforms, the opinions received by the Provincial Governments show that they are in advance of the Hindu public opinion in Behar. The present seems to be an inopportune moment for the introduction of legislation involving such radical changes as the Bill seeks to introduce. It would be advisable to postpone such legislation till normal conditions are restored when the Central Legislature will be in a better position to consider the desirability of introducing such far-reaching changes in Hindu law and customs."

I think Sir, the Government of India should reconsider this matter and should agree for circulation.

Then again, Sir, on the question of proceeding with this Bill now, whether people will take any interest in such a measure at the present moment and whether there is demand for such a far-reaching measure at the present moment, speaking again for Bengal, I must say that the people there are starving they cannot get food. There is food shortage.

**Kunwar Hajee Ismaiel Ali Khan** (Nominated Non-Official): How does it concern the Bill?

**Babu Baijnath Bajoria**: I can assure my Honourable friend that I have got very much to say, but I will not say anything which does not relate exclusively to this Bill. I will try to avoid repetitions also. People are starving in Bengal. Rice is selling at Rs. 30 a maund, people cannot get clothes, the price of cloth has gone up abnormally beyond the means of poor people and even of middle classes. There is bombing in the Province, people are always living in mortal fear of bombs. Calcutta was bombed sometime ago. Even a few days ago, Chittagong was bombed. Here again, this Bill is another, I will not call it bombing, I will call it under-mining of Hindu society. With the scarcity of food, with the scarcity of clothing, with bombs falling over head, with this mine underneath the ground in the shape of this revolutionary change in Hindu society, how can you expect the people to take any interest. They cannot afford to take any interest in this Bill at all which they would have done in normal times. So, again I say that this is also one of the reasons why this Bill should

not be proceeded with at this time. But Government thinks otherwise. They think that there is a big demand, and, therefore, this legislation is very very urgent and if this legislation is not passed probably the Hindu Society may fall to pieces, or the position of women may be gone for ever. But, I say, that this Government itself is on its last legs; it is tottering and a tottering Government on its last legs is only giving us its parting kick. Sooner, rather than later, I suppose, this form of Government will go and another Government, more national, more sensible—with more Hindus—will look after the true interests of Hindus. They will not only look after the interests of Hindus, but, I say, they will look after the interests of Hindus, Muslims, Sikhs and all other communities in matters of social reforms. I do not want that the traditions and customs of Mussalmans should be tampered with, nor do I want that the traditions and social customs of Hindus should be tampered with as this blessed Government has been doing without any sense of responsibility. They are responsible to themselves; they are neither responsible to this House nor to the people of this country. So, I refuse to take anything from this Government in such matters. Sir, I think, we should wait for better times to come. There would be a change of constitution. We will know what that constitution is. We will have representatives in this House who would be responsible to the people and there would be our own representatives in the Government who would do justice to our cause. And this is one of the reasons why I say that this Bill should not be proceeded with now. These, are in short, my reasons for proposing that this Bill should not be proceeded with now. I think, I have made a strong case for circulating this Bill for eliciting public opinion till December, 1943. It will mean that we will have a few months more and, then, at the next Budget Session we will discuss this Bill. By that time, I think, this Government might have changed also.

**Sardar Sant Singh** (West Punjab: Sikh): Let us hope so.

**Babu Baijnath Bajoria**: Yes. Let us hope that a National Government

Now, I come to the origin of this Bill: How this Bill has come into being? Notice of a few Bills were given by non-official Members of this House. Some of these Bills were introduced and some did not reach even the stage of introduction. Government in their anxiety, as if they are in agreement with those principles, hurried to appoint a committee—Hindu Law Committee, as they called it—presided over by Sir B. N. Rau. The initial object of this Committee was, firstly, to see the defects in the working of the Women's Property Act, 1937, as amended by the Act of 1938, which is generally called Deshmukh Act. The Honourable the Law Member himself has said that "this Act has proved to be wholly unworkable". And, now, to undo one wrong Government is trying to perpetrate hundred wrongs in this Bill.

**An Honourable Member:** Much more.

**Babu Baijnath Bajoria:** Then, Sir, there was another Bill by yourself, Mr. Deputy President, and with your permission, Sir, I would like to touch on the object of these Bills by non-official Members in order to show that what these non-official Members wanted by the introduction of piecemeal legislations, as they are called, were very minor changes in the Hindu Law compared to this octopus which we have got here. Sir, your Bill contemplated an addition of a proviso to Section 3, sub-section (1) in order to introduce the following changes.

"Provided further that in the absence of a widow or a son or a son's son or son's son's son of the intestate, the property of the deceased shall devolve on his daughter, subject to the limitations and in the order provided by the Hindu Law in this behalf:

Provided also that in the last mentioned case if there is a widow of a predeceased son existing with one or more maiden daughters, she shall inherit as a maiden daughter and if there is no maiden daughter but one or more married daughters having a son or sons the predeceased son's widow shall inherit as one of such daughters and if the daughter dies leaving a son or sons the son or sons shall inherit, their mother's share along with the son's widow—or son's son's widow or son's son's son's widow."

This is the main object; the other part is consequential. You only wanted a clarification or betterment of the position of the daughter *vis-a-vis* the position of the widow of the pre-deceased son. Mr. Amarendra Nath Chattopadhyaya's Bill was, more or less, of the same nature. Dr. Deshmukh and Kailash Behari Lal wanted to have retrospective effect of the Bill from the 26th of September, 1935, i.e., the date of introduction of the original Bill by Dr. Deshmukh.

Then, again, there was another Bill by Dr. Deshmukh which provided "that the widow should be entitled to absolute estate (this is important) to the extent of 1/6th of the property inherited by her husband." These were, in short, the objects of those non-official Members who introduced Bills for legislation. None of these Bills contemplated that daughter should be made simultaneous heir with widow, son or grandson. To consider the points raised in these Bills the Rau Committee was appointed but this Bill, framed by the Rau Committee, has practically no relation or bearing with the objects of the Bills which were then introduced. It has gone far beyond any of them. I think they have gone beyond their terms of reference which they had no business to do, but as eager jurists they took the sanction of the Government of India. Sir B. N. Rau wanted to create a big name for himself. He wanted to sit on judgment on Manu and Yajnavalka and that is why he wanted to codify the whole of the Hindu Law. In their generosity the Government of India permitted them to go on. I do not know how much money has been spent on this Hindu Law Committee. I think it runs into several lakhs. It would have been better if this money had been spent on a more noble cause.

This brings me to the question of the three main features of this Bill. As I am not a lawyer, and if I make a mistake, I shall be glad to stand corrected, and as the Honourable Mr. Ambedkar is listening to me, he may point out any mistake I may make. I will read the very words of the framers of the Bill:

"Firstly, it embodies a common law of Intestate Succession for all Hindus in British India. Secondly, it removes sex disqualification by which Hindu women in general have been precluded from inheriting property in various parts of India: and thirdly, it abolishes the Hindu woman's limited estate."

I will deal with these one by one. The first one is about a common law of Intestate Succession in India for all Hindus throughout British India. This again can be divided into three parts: firstly, codification of Hindu law:



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secondly, modification or reorientation of Hindu law: and thirdly, uniformity i.e., this code will be applied to all Hindus throughout British India, whereas at the present moment several schools of Hindu law are in existence.

Coming to the first point about codification, I would, with your kind permission, remind the House that an exactly similar motion for codification of Hindu law was raised in this very House in 1921 by K. G. Bagde. This was the resolution before the House:

"This Assembly recommends to the Governor General in Council that he would be pleased to appoint a committee to consider the question of the codification of Hindu Law, and if possible to prepare a draft code for submission to the Indian Legislature."

Sir, on this resolution, no less a personality than Sir Tej Bahadur Sapru (he was then the Law Member) said—and I can do no better than quote his own words, which will, I think, command much more respect in this House than words from a humble man like myself:

"Anyhow, the real point is that even in regard to the German code, which has been described by Professor Maitland, as the most perfect code invented by the human mind during the last 200 years, the German nation proceeded with the utmost possible caution. As my Honourable friend, Mr. Bagde, himself pointed out, the first attempt began about the year 1846 (dates are important) and you will find that the first Commission which was appointed there to codify the law was in the year 1887 or 1899 (that is 40 years after). It laid down what is known as the first project. This first project was again followed by what is known as the second project, and this again in its turn was followed by the third project.

So, time after time there was revision by committee or commission and again by another committee or commission, and it was not until the year 1896 that the German code was put in its final shape, and even after that it took four years to obtain the Imperial sanction. This is the caution and the circumspection with which they proceeded there.

Similarly, I could give, if necessary, the history of other continental codes. In recent years the most remarkable instance is that of the Swiss code which again was brought into existence after arduous labours extending over a long number of years. Therefore, while as a lawyer, and as a Hindu lawyer, anyone in my position should consider it his pride and privilege to assist his own countrymen to have a system of personal laws in a codified form, I would beg the House not to allow its enthusiasm to over-run the necessary caution in this matter."

Again, Sir Tej Bahadur Sapru goes on to say:

"Again, my Honourable friend, Dr. Gour, seems to think that once law has been codified, all the troubles are over. The best answer that I can give is by referring to Dr. Gour himself. Take for instance the Transfer of Property Act consisting of 138 sections, and yet the learning, patience and knowledge of Dr. Gour has given us three stupendous volumes extending over many pages. Take again his book, the Hindu Code, into which he says, he has condensed the whole of the recorded wisdom of ancient sages in 290 sections. But look at the book itself. It extends over 1200 pages. Therefore, let us not build our hopes too much upon mere codification. At the same time it is a great mistake to suppose that when law has been codified, there can be no room for doubt or difficulty. In this connection perhaps the House will allow me to refer to two very suggestive passages, one from Bentham and one from a French writer. Now, Bentham, who was perhaps the most enthusiastic supporter of codification says:

"The object of a code is, that every one may consult the law of which he stands in need, in the least possible time; and a code should be complete and self-sufficing, should not be developed, supplemented or modified except by Legislative enactment."

Here Sir Tej Bahadur Sapru says that in Germany it took them over 50 years to codify their laws, and then even after the code was ready it took four years to get the Imperial sanction. Well, with regard to the codification of Hindu Law, the Hindu Law Committee was appointed only in the year 1940 or 1941. In these two or three years they want to make a complete code of Hindu law, of which only the first and second part have been published. I think this is going far too fast. Again, in Germany, Switzerland and other countries the question is not so difficult as it is in India, where even in the Hindu community there are so many castes and so many schools of Hindu code, and so many usages and customs existing. It is absolutely impossible, in my opinion, to try to make a Hindu code which will be applicable from, say, Kashmir to Cape Comorin and from Assam to Karachi.

Sir, there are two systems even in Europe. The first is the Anglo-American judicial system, which I will call the Allied system; here there is no codification, and each case is decided by the jurists and customary law prevails. Then

there is the continental judicial system or the Axis system. They have got codification in Germany, France and other countries. Here we are being switched on to the Axis system, with which I do not agree. Again, pure codification would mean that what is our law at present is to be reduced in writing, which in itself will be a stupendous and herculean task. If you make changes in that law, it will make matters worse, as it has been done in this Bill. Are we here in this House to alter our ancient laws and social customs? For the Hindus it is difficult to separate religion from Hindu social customs or the Hindu law. It is the Hindu religion which has got its sway in all matters. Our greatest authorities are Manu, Yajnavalkya, and commentators like Vignaneswara who is the author of Mitakshara and Jimuta Vahana who is the author of Dayabhaga. Can this House here or the Rau Committee or any other committee sit in judgment over these Rishis and the authors of these texts? I for one am not prepared to submit to any judgment of this House or of any house which goes against the writings of these learned Rishis and of Manu—we call it a divine law. What will be the feelings of my Muhammadan brethren if a Muhammadan Code for them is tried to be formed here? I would appeal to the Deputy Leader and the members of the Muslim community here, what will be their feelings if, instead of their present law, instead of the law of the Shariat by which they are governed, this Government comes forward and tries to codify their law and make revolutionary changes in your law? Will you submit to that?

**Mr. Lalchand Navalrai:** Still Mr. Kazmi has introduced Bills here.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): Order, order. The Honourable Member does not give way.

**Babu Baijnath Bajoria:** Which Bill? Mr. Kazmi has introduced so many Bills; I do not know what Bill is meant . . . . .

**Mr. Lalchand Navalrai:** Giving rights to women . . . . .

**Mr. Deputy President** (Mr. Akhil Chandra Datta): Order, order: the Member is not giving way.

(Babu Baijnath Bajoria resumed his seat.)

**Mr. Lalchand Navalrai:** He has given way, Sir.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): He has given way now. He did not give way at that time.

**Mr. Lalchand Navalrai:** I am referring to that Bill of Mr. Kazmi in which the Muhammadan Law was changed into this, that women were given power of getting divorce under certain conditions.

**Babu Baijnath Bajoria:** A lawyer of the eminence of my Honourable friend must know that women under the Muslim law have already got powers and rights of divorce; he simply wanted that to be clarified.

**Mr. Lalchand Navalrai:** This is also clarification.

**Babu Baijnath Bajoria:** This is not clarification. Do you mean to say that Mr. Kazmi's Bill was a codification of Muslim law?

**Mr. Lalchand Navalrai:** No; reforming it.

**Syed Ghulam Bhik Nairang** (East Punjab: Muhammadan): No question of reform.

**Babu Baijnath Bajoria:** No; here, this reorientation or modification will mean that we will be sitting in judgment over the Rishis and that we will be abolishing what we have been cherishing, observing, performing and following according to the dictates of Manu and Yajnavalkya. This is a thing which should not happen in this House.

Now, about the question of uniformity of Hindu law, that one uniform law should apply to all the Hindus throughout the length and breadth of British India. They say they are doing this for the sake of what they call simplicity. I do not know whether in matters of succession or like matters, simplicity should be the aim at the sacrifice of principles. I do not think that anybody would like that his law, the law by which he and his father and forefathers were being governed, should be changed and he should be asked and even forced to do

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governed by another law, which is an admixture. The Bill now before us is neither Manu, nor Yajnavalkya, nor Dayabhaga nor Mitakshara—it is a curious admixture of everything. I will say it is a “varna sankara” Act. The framers of the Bill have taken, at their convenience and according to their own sweet will, whatever they pleased from the various systems—a plum from this tree, a plantain from that and an apple from a third. (*An Honourable Member*: “Everything sweet.”)—sweet according to them. No true Hindu can ever accede to such a thing. We see that the same kind of admixture is being done in the case of the Hindu Marriage Bill also. The Government are consistent, I must say; they have introduced that Bill to have “varna-sankari praja”; and in this Bill, for the “varna sankari praja”, that is, the offspring of the admixture of castes, they are providing for this succession procedure. If you have got “varna sankari praja”, you must have a “varna sankari” law of succession; and I think that that is what the Government intends. The Congress has gone one step further, I may say, though it does not come within the scope of this Bill—they are having an admixture of language—a “varna sankari bhasha”, mixing Urdu and Arabic with Sanskrit and Hindi and making it a “khihari” of everything so that with the “varna sankari” praja and with a “varna sankari” law of intestate succession and a “varna sankari” language, I think, we will have a “varna sankari” age. I want to be pure, I want that there should be no admixture, and as such I do not agree to this so-called uniformity which they want at the sacrifice of all principles, at the sacrifice of our usage, at the sacrifice of our custom.

I now come to the second principle, namely, about sex disqualification. I may inform the House that excepting in Bombay where women used to have better rights, in the rest of India before 1929 the widow, the daughter, the mother, the grandmother and the great grandmother—these four females only had the right of inheritance, and even they had a limited estate, with no right of partition. The position, as a matter of fact, was that the woman did not inherit, but the sons inherited, but if the sons partitioned, then their mother got an equal share to that of the son. This was the position in 1929. By Act II of 1929 three more female heirs were introduced, namely, the son's daughter, the daughter's daughter and the sister. They were introduced as further female heirs. Under the Deshmukh Act, a change was made, and I agreed to that change and I stick to that change even now—and that was that the widow was given the right of partition and her share was to be equal to that of a son, but that was to be a limited woman's estate; she would not be able to part with the corpus of the estate. By another amendment in 1938 the widow of a predeceased son and the widow of a predeceased son's son, were included. These are all the female heirs who are entitled to any inheritance at the present moment. Then again, they get only a limited woman's estate. I may remind the House that at the time Dr. Deshmukh introduced the Bill the whole of the Congress Party was present here. Sir N. N. Sircar who is one of the foremost lawyers of Hindu law in India, was then the Law Member of the Government. He did not agree to the proposal of Dr. Deshmukh; he was opposed to it. He only agreed to the extent of the widow and giving her a right of partition and giving her a limited woman's estate. Originally the demand of Dr. Deshmukh was that mother, widow, sons and daughters were to be given equal shares and that the females should have a right of absolute ownership. But it was no less a person than Sir N. N. Sircar who turned that down and considered that such a change was not sanctioned either by the Dayabhaga or the Mitakshara, and did not agree to such a proposal. I referred at that time that he gave him half an anna where Dr. Deshmukh wanted one rupee. That is what I said at that time. But in these three or four years since 1938, what has happened that the Government of India should change their mind altogether? They have gone even much further than what all these reformers, all these introducers and promoters of these private Bills wanted. None of these Bills, except Dr. Deshmukh's Bill, which I have just mentioned,—and even

Dr. Deshmukh dropped the idea of making the daughter a simultaneous heir-- which were referred to the Rau Committee mentioned anything of the sort.

**Mr. Govind V. Deshmukh:** He did not sponsor any Bill to that effect.

**Babu Baijnath Bajoria:** Even Dr. Deshmukh in the two Bills which were referred to the Rau Committee did not want anything of the sort. At the risk of repetition in order to refresh the memory of Dr. Deshmukh's elder brother here I will say that he only wanted that the widow should get an absolute right over one-sixth of the husband's estate.

**Mr. Govind V. Deshmukh:** What is the original Bill?

**Babu Baijnath Bajoria:** In the Deshmukh Bill which was referred to the Rau Committee--after the slap he received from Sir N. N. Sircar, which floored him, he never dared to raise his head nor had he the courage to ask for simultaneous heirship to the daughter again. (Interruption.) As a matter of fact Sir N. N. Sircar allowed that Bill to be introduced on an official day by Dr. Deshmukh only on that understanding; otherwise he would not have allowed that at all. The understanding was that he would confine it to widows and make it only a limited woman's estate. I can assure Mr. Deshmukh that what I have said here is hundred per cent. correct.

**Mr. Govind V. Deshmukh:** I doubt

**Babu Baijnath Bajoria:** In this Bill what do we find? Sex disqualification has been removed and daughter's daughter's daughter's daughter; mother's mother's mother's mother, and sister's daughters and so on, have all been introduced as legal heirs, they have all been included. As a matter of fact, wherever a male is given the right, the female has also been given the right. This is not at all in keeping with either Hindu tradition or Hindu custom nor is it the demand of the public. A daughter's daughter is considered to be a very distant relation in a Hindu home because she changes two *gotras*. The daughter goes to another family, and her daughter goes to still another family. The whole thing is this. The conception of a Hindu family as understood by the framers of this Bill and as endorsed by this blessed Government is that a family consists of a person, his wife, his son and his daughter. Then, as regards brother, father, mother--they are all considered to be distant relations. That you find also in the rules of the Legislative Assembly in connection with the admission cards for Visitors. We can get admission cards for a wife, a son or a daughter without notice but for a father or for mother or for brother or daughter-in-law, two day's notice has to be given. This shows a conception of a Hindu family which is absolutely ignorant of the real position. It is really the conception of an English family. At any rate, it is not a conception of a Hindu family. So, in my opinion, no more female heirs should be included in the category than has been done by the Act of 1929 and so the total removal of son disqualification cannot be agreed upon.

The third question is about the abolition of the woman's estate. Here, the framers of the Bill say that they want to abolish the Hindu woman's limited estate and want to give each of the female heirs full and absolute right over the property which they inherit. This is a fundamental change in the Hindu law. The right to inherit property absolutely can be given only to a son or to a son's son or to a daughter's son and not to females, because according to our Hindu ideals, only the person who can give spiritual benefit to the deceased can take property absolutely and none else and a female is not capable of doing that. Here, I will, with your kind permission, read the opinion about this question of inheritance and absolute property of no less a person than His Holiness Shankaracharya Maharaj of Kamakoti Pith in Madras. He is one of the most learned Shankaracharyas in this country and is highly respected by the Hindus. He says:

"Every system of inheritance has a philosophy of social aims behind it. A Hindu should desire his property to devolve according to the ancient Hindu law of inheritance. The property of a deceased Hindu which passes with full ownership to another is known as *Daya*. All relations are not entitled to *Daya*. The object of allowing property to devolve is not merely the physical maintenance of those who take the inheritance. If it were so, a limited uniform provision may be made for all relations of the deceased alike,

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and the rest of the property disposed of otherwise. But the Hindu Law rests upon a definite system. There are some members who are entitled only to proper maintenance from the assets of a joint family, or of a deceased Hindu. A Hindu desires that his descendants should keep up the high spiritual ideals and the members of his family should continue to live the same mode of life, with the same *acharas* and beliefs, which his ancestors did. All members are to be provided with proper maintenance, so that they may maintain the family traditions, culture and *achara*. They will not be liable to do this properly, if they are left in want. Only some relations are declared entitled to inherit the *Daya*. The person who is entitled to the *Daya* takes it, though it may be more than what is needed for his maintenance. In return for taking the *Daya*, he is bound to offer *Pinda* or *Udaka* to his ancestors both immediate and remote. If the ancestors go without such *Pinda* or *Udaka*, they are deprived of the legitimate spiritual benefit which they expect from their descendants. It is the duty of the person taking the *Daya* to prevent such a happening.

If a person takes the *Daya* who is not qualified to offer *Pinda* or *Udaka*, such taking would be misappropriation. No Government should allow such misappropriation to take place. The Government would be acting without principle, if it allows such misappropriation, in the name of Hindu law. Persons who have no such beliefs have no right to be called Hindus, and there can be no objection to their having their own rules of succession, which cannot be any part of Hindu law. It is also the duty of the persons who take the *Daya*, to sustain and to continue the traditions and the ideals of the ancestors whose property they take. Any new set of rules which disregard the above principles cannot be good and proper. The innovations made by the Act of 1929, 1937, and 1938, will have the effect of allowing a large part of the joint family assets of Hindus to reach the hands of new heirs, who are not only not qualified to render the spiritual benefits to the ancestral line, but are enabled to take their portion without the corresponding responsibilities and obligations which have attached hitherto to the assets in the hands of the male heirs. Such obligations are numerous and include (i) the discharge of family debts, (ii) marriages of sisters and daughters of the family, (iii) the performance of various religious ceremonies (*Samskaras*) for all the members of the family, whether male or female, (iv) maintenance of members of the family, (v) expenditure which has to be incurred in respect of the sisters and daughters of the family, who by tradition are to be invited and supported in the family until they have become mothers of two or three children, and similar other obligations."

This opinion from such a holy personage ought to be enough to convince the Government of the impropriety of this proposal but I know that this Government, if it had any faith in spiritualism would never have brought forward such an unspiritual Bill. So, I would like to quote Dr. Ganganath Jha's opinion in this respect about *Shraddha*. I think he was as educated a person as any of the Hindu Members sitting on the Treasury Benches and I think his opinion will carry better weight with them. This opinion is on page 15 of these opinions. It is part of the opinion of Mr. Thakur Prasad, Munsif of Bijnor. Somebody from the Muslim League Benches the other day said, 'Have you no better opinion to quote than that of a munsif'. This opinion is not the opinion of the Munsif. It is the opinion really of Dr. Ganganath Jha which has been quoted by the Munsif. This is what Dr. Ganganath Jha says:

"There is a proposal (I do not know if it has become law yet) that in the middle of the list of inheritors of property as provided by the Hindu Law books one or two additions should be made. This proposal loses sight of the basic fact underlying the whole fabric of our laws of inheritance. So far as I have been able to understand these laws the order of precedence among inheritors is strictly in accordance with the liability to offer *Shraddha*. If that be so, will it be right and fair to interpolate new names into the list while the legislature cannot, I suppose, interfere with the liability to perform the *Shraddha*?"

He further says:

"The personal law of the Hindus is so complicated and interrelated in its various factors that piecemeal legislation is bound to be a failure and to create greater confusion than there exists already."

He then touches the religious and spiritual side of the question. He says that one who cannot give *Pindas* and one who cannot perform the *Shraddha* of his ancestors cannot have the absolute right of inheritance.

Apart from this, there are other questions to which Shankaracharji Maharaj has also rightly alluded to, that is, about the obligations. If the woman gets the right of absolute inheritance, will she also be responsible for the obligations? There is no mention whatsoever about them in this Bill. It is discreetly silent on this point. Sir, under the ordinary law, a son or a grandson or a male heir has responsibilities for the debts of the family. They are responsible to pay the debts of the family and still they will have to share the property with those who have no responsibilities or liabilities. Where is the equity then? If you say

very well, the daughters will also take their share of the liabilities and they will also be responsible for the debt on the property which comes to their share, in that case also a very great difficulty will have to be faced. We all know that amongst the Hindus in the various parts of the country, in Bengal principally and even in my community and in other communities, there is a question of dowry at the time of the marriage of the daughters. Even by giving good dowries, it is impossible to get a good husband for a girl. And if the prospective husband knows that he will have to pay the debt of his prospective wife, then you can easily imagine who will marry that poor girl.

**Mr. K. C. Neogy** (Dacca Division: Non-Muhammadan Rural): What about the prospective property?

**Babu Baijnath Bajoria**: I think the argument of my Honourable friend, Mr. Neogy, is that the wife will get the property. . . .

**Mr. Lalchand Navalrai**: The incumbrance will be upon that property which the wife would get and if there is any debt, that will be the first charge on that property.

**Babu Baijnath Bajoria**: I was just going to say the same thing which my Honourable friend has explained. But who will undertake that litigation? Supposing the property is mortgaged and that mortgaged property devolves upon the sons and the daughters. That property will have to be auctioned. First of all, a mortgage suit will be filed in the name of the sons and the daughters and then it will take years before the case is decided. Will the husband or the husband's family like to go into litigation? Certainly not.

**Mr. Lalchand Navalrai**: Then they will have to give up the property.

**Pandit Nilakantha Das**: Parents will not be in the marriages at all. It will be all love marriages. That is at the back of the Bill.

**Babu Baijnath Bajoria**: As Pandit Nilakantha Das says, it will be a love marriage. Marriage by the front door and divorce by the back door. But I would have liked to reserve these remarks for the Hindu Marriage Bill.

Sir, there are other obligations also which have got to be considered. At present not only a brother but even a male cousin thinks it his moral duty to arrange for a suitable marriage for his sister because he thinks that she has got no right to property and, therefore, he maintains her suitably. He tries his best to see that she is suitably married and settled in life. But if this simultaneous heirship or absolute right of ownership comes in, take it from me that this question of moral obligation will vanish altogether, because even at the present moment a brother does not consider it his duty to maintain his brother or to arrange for his marriage and in many cases he does not do that. But he maintains and gets his sister married suitably. And in this poor land of ours, after all how many people are rich? I think the number of rich people is not even a few per cent. There are innumerable cases where brothers and uncles borrow money and pawn their ornaments and mortgage their property to get their sisters and their nieces married. All these things will vanish altogether if this Bill becomes a law. I can also say without fear of contradiction from ultra-modern Hindu women that the position of Hindu girls will become much worse under this Bill even if they get this right of absolute property. If the sense of moral obligation on the part of the male members of the family goes, their position will be helpless. Many of the poor sisters will have to remain unmarried and they will become destitute. So, so far as these three principles go, I think I have to the best of my ability proved that neither of these are desirable nor are they wanted and Government should not thrust them upon us.

Now, Sir, I would like to refer to a few important provisions of this Bill. First and foremost comes the question of the right of daughter to simultaneously inheritance. Needless to say, that I strongly object, with all the emphasis at my command, to this new innovation in the Hindu law. It cuts at the very root of the system of inheritance among the Hindus. There is no authority in any school of Hindu law to support this. I challenge anybody here on the floor of the House to quote any Shashtra or to quote any text from any school of

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Hindu law which says that when there is a son, the daughter should also become a simultaneous heir.

**Sir Cowasjee Jehangir** (Bombay City: Non-Muhammadan Urban): It is intestate. It does not prevent a man from making his will in any way he likes.

**Babu Baijnath Bajoria**: My Honourable friend, Sir Cowasjee Jehangir, says it is intestate and the people can make wills. Do you expect that there will be hundreds of thousands of wills? Well, I do not expect such action from every body. It will be only English educated persons who will make wills. In the villages and towns ordinary citizens do not generally make wills because they know perfectly well that after all it is their sons who will inherit. Sir, the framers of this Bill have got this thing in their mind and they have mentioned that now that Wills are being freely made, those who want not to follow the line of succession as provided in this Bill may make Wills. I say that those who do not want to follow the Hindu Law—Dayabhaga Law—they can marry under the Civil Marriage Act. I would go so far as to say that it is better if they go out of Hindu fold, I do not want them to be Hindus in name, if they are not Hindus in their deed and action.

**Nawab Siddique Ali Khan** (Central Provinces and Berar: Muhammadan): We are willing to have them.

**Babu Baijnath Bajoria**: You can have them. Sir, in the Explanatory Notes the framers of this Bill have referred to a text from Manu—Chapter Nine Verse 118—it is on page 6 of the notes:

"The brothers should severally give to their maiden sisters out of their own shares, each a one-fourth part out of his share; those refusing to give shall be degraded."

Here they base the right of simultaneous succession to daughters on this verse. But does it say so? It says the brother will inherit. It is not my own translation, it is Committee's own translations. The brother will inherit and then one-fourth of his share will be given to the sister.

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

Vijnaneswara's text is also mentioned but the translation is not correct. I have discussed it with the best Pandits and I am informed that the real meaning is: supposing there are three brothers and two sisters. The estate will be divided by five because the number of children is five and one-fourth of the share of one child i.e., one-fourth of one-fifth or 1/20th will be given to each of the two sisters, and the remaining 9/10th will be divided equally amongst the three brothers. This also does not apply in the case of all sisters. Here again they are mistaken. This relates only to maiden sisters and not to married sisters. As I have pointed out man provides for his daughter during her virginity till the time of marriage. It is a very salutary provision but in this Bill no distinction has been made between a married daughter and an unmarried daughter. As regards the married daughter, I say very emphatically, she is no charge on her father and she has no right on her father's property. She has been given away by way of a gift—"dan"—which means that father has no hold and no further right over the girl and this is the injunction for all Hindus and if you want to be a Hindu you will have to observe it.

Again, on page 15 of the Report of the Committee they have quoted one text from Manu—Chapter IX verse 130. Its translation as given in the report reads thus "A son is even as one's own self and the daughter is equal to the son; so long as she is there as the father's ownself, how can any other take the property".

Sir, this rule does not apply when there is a son. Again, it does not apply to daughters in all cases. The only case where it does apply to daughters is in the case of "Putrika" or "appointed daughter". There is a great difference between daughter and "putrika". "Putrika" means a daughter who is married on a specific condition that her son will become the son of the father of the daughter, in that and only in that case this rule applies. It means that daughter has been given away in marriage on the condition that her son will

become the son of her father. Here I will say that it is no use taking verses from here and there without any reference to the text. Sir, they have torn away some verses from here and there simply to show to the Hindu world that they have got the sanction of shastric texts behind. The framers of this Bill could have said that they have no faith in Hindu Shastras, Manu, Dayabhaga and others, as they are rules of good olden days which cannot be applied in modern times, and for the present their judgment will prevail. They are Manus, Yagnyavalkyas, Vijnaneswaras of today and we will have to follow texts and laws made by them. It would have been more sincere and straightforward on their part. Why spoil the names of great Rishis and misinterpret verses and mislead people that we are doing things in the name of Hindu Shastras? I am quite prepared to challenge anybody either here in this House or outside if he can contradict me on this question that Hindu Law as propounded by eminent Rishis like Manu and Yagnyavalkya, by commentators like Jimutavahana or Vignaneswara who are the authors respectively of Dayabhaga and Mitakshara schools respectively gives no place to the daughter as simultaneous heir with the son. I do not know under what authority this Government while professing to have respect for these Rishis, as the Honourable Sir Sultan Ahmed mentioned the other day, yet go against their very basic doctrines. There is another very peculiar provision in the Bill. It says that the daughter is to be the "Gotraja" or agnate of her father even after her marriage. The thing is so absurd, so ridiculous and ludicrous that I do not want to speak at length on this point. Even the framers of the Bill have said in the Explanatory Note that—

"We are aware that according to Hindu ideas, a girl upon marriage is deemed to be reborn in the *gotra* of her husband. Strictly speaking therefore, she is a *gotraja* of her father until marriage and of her husband after marriage."

Because it suits them, because they want to give the right to the daughter, therefore, they have made provision that even after marriage she will be the agnate, i.e., she will retain the *gotra* of her father and she will not take the *gotra* of her husband. I do not know from which authority they have laid this principle down. Excepting again the westernised women, no Hindu girl would accept this proposition. Certainly none will accept. A Hindu girl after her marriage becomes part and parcel of the family of her husband. She becomes part and parcel of her husband, and she and her husband have two bodies, but one soul. I see my Honourable friend, Dr. Ambedkar, laughs. It shows what little respect he has got for these doctrines of the Hindu law though he himself is a constitutional lawyer.

**Maulana Zafar Ali Khan** (East Central Punjab: Muhammadan): Does this mean that a Hindu girl as long as she was not married was the slave of her father and after her marriage, she becomes the slave of her husband?

**Babu Baijnath Bajoria:** I can tell my Honourable friend, the Maulana Sahib, that he should not interfere in a subject which he does not understand. He does not understand the Hindu law, he has got no conception of Hindu law, he has got no idea of a Hindu family. If he wants to understand and is inquiring in that spirit, I will make him understand. I can tell him that she is neither a slave in her father's house nor a slave in her husband's. She is respected in her father's house and is the queen in her husband's house. A Hindu unmarried girl is treated with the utmost reverence in her father's house and is considered fit to be worshipped. She becomes Lakshmi in her husband's house. So long as she remains in her father's house, so long as she is unmarried, she is a Kumari and we worship unmarried daughters. If anybody does not maintain and properly look after his unmarried daughters, then, I, for one, will condemn him with all the emphasis at my command.

**Maulana Zafar Ali Khan:** Then she retains her distinct personality.

**Babu Baijnath Bajoria:** I have already given a reply to my Honourable friend's question and probably if I repeat again, the Chair will pull me up. I have got to say very much and I do not want to repeat even one argument.

**Mr. President** (The Honourable Sir Abdur Rahim): I understand the Honourable Member has been speaking for nearly an hour and a quarter.



**Babu Baijnath Bajoria:** In view of the importance of the subject, I cannot help being lengthy.

**Mr. President** (The Honourable Sir Abdur Rahim): I understand the Honourable Member has moved his motion for circulation of the Bill. Is he now discussing the merits of the measure?

**Babu Baijnath Bajoria:** Mr. President, if you think that I have to speak only on that amendment and not on the motion for reference of the Bill to the Select Committee, I will stop now.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member can certainly speak on the general features of the Bill. But his motion is for circulation of the Bill. The clauses of the Bill will be considered later.

**Babu Baijnath Bajoria:** According to me, it would be considered later on. I do not know if a vote of the House will be taken first on my motion for circulation of the Bill and if the motion for referring the Bill to the Select Committee discussed later on. In that case, I will defer my speech till then, but as matters stand, I must speak both on the motion for circulation and on the motion for referring the Bill to the Select Committee.

**Mr. President** (The Honourable Sir Abdur Rahim): After the report of the Select Committee is presented to this House, there will be further discussion.

**Babu Baijnath Bajoria:** We are now discussing the motion for reference of the Bill to the Select Committee. That means the House will now decide upon and accept the principles of the Bill. I am now here discussing only the principles of the Bill and nothing else.

**Mr. President** (The Honourable Sir Abdur Rahim): Yes, the Honourable Member should confine himself to the principles of the Bill.

**Dr. Sir Zia Uddin Ahmad** (United Provinces Southern Divisions: Muhammadan-Rural): Do you not want to kill the Bill by your motion for circulation?

**Babu Baijnath Bajoria:** Not at all. My motion is not for killing the Bill but for giving justice to public opinion.

Sir, suffice it to say that this question of retaining the *gotra* of the father is the most absurd one. No Hindu girl will ever agree to this excepting those modern westernised girls who do not know what 'gotra' means as they do not want to have any *gotra* at all.

Sir, this brings me to the question of divided and undivided sons, married daughters and unmarried daughters. This Bill makes no difference between a divided son and an undivided son. The expression 'divided son' and 'undivided son' is found in the Bill itself. This means a son who has already taken division from the family and the son who remains in the family. Under the Bill they make no difference between the two whatever. I do not understand why a divided son should get a share in the family property after division. He has already divided himself from the family and he has taken his share at the time of division. Then when his father died and if intestate, that son who is living altogether separate from the family, how can he come in and ask for his share in that family as if he was not divided? This passes my imagination. I will read the explanatory note from the Bill on page 7. Here again they say there is a conflict of judicial decisions and they have adopted the view which led to the simplest rule. By this you simply want to crush the rights of the existing undivided sons. This is not proper. As regards married and unmarried daughters, here also the framers of the Bill make no difference whatsoever. As I have already pointed out before there is a difference and a vast difference, between the status of the unmarried daughter in her father's family and that of the married daughter. . . .

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

**Babu Baijnath Bajoria:** First, I did not give reason but I spoke in passing when I was referring to other matters. I have now to give reasons why there should be distinction between the married daughter and the unmarried daughter. Here, with your kind permission, I will read a few lines from the opinion of the District Judge of Manbhum-Singhbhum:

"(1) I agree with the local Bar Association that the existing distinction between the right of a divided and an undivided son to inherit the estate of his father should be maintained. It will be highly inequitable to permit a divided son who has already taken away his share in the ancestral property to deprive the undivided son of his father's share by claiming a further share in that property. The framers of the Bill have abolished this distinction on the ground of simplicity. But mere simplicity at the expense of equity and natural justice can hardly be supported.

(2) I also agree with the local Bar Association that an unmarried daughter should not be put on the same footing as a married daughter. It is well known that marriage entails a very heavy expenditure amounting to an appreciable share of the total assets of the father and it will be highly inequitable to allow a married daughter the same share as an unmarried daughter for whose marriage her guardian may have to spend an appreciable amount subsequently out of her share of the property.

(3) The Bill does not remove the present unsatisfactory state of law regarding the right of a Hindu widow to inherit her husband's property if she ceases to be a Hindu before remarriage."

Now, Sir, I come to, 'stridhan'. The definition of 'stridhan' property as given in this Bill is also a very curious one. It says that only the property which a widow gets from her husband is not to be considered as Stridhana; all other property which she gets will be considered as Stridhana. This is wrong in principle. Originally Stridhana meant ornaments, clothes and utensils, etc., and gifts given at the time of marriage by parents and other near relations. At present when we are giving so many rights to the daughters and females they will have property in various ways and if you consider all that to be Stridhana property, it will be very unjust to the males, because Stridhana will devolve on daughters, daughter's daughter, daughter's son, son, son's daughter, and last of all on poor husband.

**Mrs. Renuka Ray:** Sir, may I interrupt the Honourable Member, and ask whether all these details of the Bill are necessary when the Bill is going to be referred to the Select Committee?

**Mr. President** (The Honourable Sir Abdur Rahim): I think it is a valid point of order. The Honourable Member cannot discuss the Bill now clause by clause. An opportunity will arise afterwards. This is my ruling.

**Babu Baijnath Bajoria:** Sir, I am not going into the Bill clause by clause. I am only discussing some of the main provisions of the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member is going much further than that. I have already given my ruling, which is in accordance with the uniform practice of the House.

**Babu Baijnath Bajoria:** Sir, I again bow to your ruling, but let me submit, Sir, that I have only

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has been discussing the principles of the Bill for more than an hour, nearly an hour and a half. He is now dealing with the clauses in detail. This is not the stage at which clauses can be dealt with in that manner.

**Babu Baijnath Bajoria:** If time is the only criterion

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member need not argue. I am telling him what is the practice of the House, and what is my ruling.

**Babu Baijnath Bajoria:** I am not going into details, Sir.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member is going into details.

**Babu Baijnath Bajoria:** I only say that if widow is to be given the first right of inheritance on her husband's property, and if in wife's property the husband gets 7th degree of inheritance—whereas daughter, son, daughter's daughter, daughter's son have prior claims—then, I say, that Stridhana clause is absolutely unjustifiable and absurd.

Sir, I have made some calculations and I find that if the property is divided, according to the principles laid down in this Bill, amongst widow, son and daughter, within three generations 70 per cent. of the property will pass to the females.

**An Honourable Member:** What is the harm?

**Babu Baijnath Bajoria:** I have got this table before me. Apart from sentiments and religion, purely from economic point of view, it will conclusively

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prove the absurdity of the proposals, contained in this Bill. Now, Sir, let me illustrate my point of view by giving an example: If a person dies leaving behind one widow, a son and a daughter, and a sum of ten thousand rupees, according to this proposal it will be divided thus: Widow gets Rs. 4,000, son gets Rs. 4,000 and daughter gets Rs. 2,000. If the widow remarries, she takes away property with her—I know that there are restrictions and she won't be able to take immoveable property if she remarries, but if she gets absolute right over property, she will manage to convert the immoveable property into cash and take away to her next husband. Let us assume that she remains in the family. Taking the best case for the male, after her death Rs. 2,666 are given to the son and Rs. 1,333 to the daughter, or the son gets Rs. 6,666 and the daughter Rs. 3,333. Supposing the son dies: this Rs. 3,333 which goes to the daughter never comes into the hands of any male either in this or in any other family, because daughter's daughter will inherit, and then her daughter and so on, if the son dies, out of this Rs. 6,666—again, let us suppose, he leaves one widow, a son and a daughter—then Rs. 2,666 will go to the widow, Rs. 2,666 to the son and Rs. 1,333 to the daughter. After her death, widow's son will get Rs. 1,777 and daughter will get Rs. 889. So, altogether the son gets Rs. 4,443 and the daughter Rs. 2,222. So, this Rs. 2,222 again goes out to another family never to be in the hands of any male member. If this is repeated again, then at the end, Rs. 2,962 will remain in the hands of the son and the daughter gets Rs. 1,481. The above distribution is explained clearly in the table below:—

(1)  
*Table showing division of an Estate if widows do not remarry and the property devolves to "A"'s heirs.*

A		
Rs. 10,000		
Widow. Rs. 4,000	Son. Rs. 4,000	Daughter. Rs. 2,000
After widow's death—	2,666	1,333
	6,666	3,333
Widow. 2,666	Son. 2,666	Daughter. 1,333
After widow's death—	1,777	889
	4,443	2,222
Widow. 1,777	Son. 1,777	Daughter. 889
After widow's death	1,185	592
	2,962	1,481

(2)  
*Table showing division of an Estate if widows re-marry and take away the property.*

A		
Rs. 10,000		
Widow. 4,000	Son. 4,000	Daughter. 2,000
1,600	1,600	800
640	640	320

So, in three generations only, out of Rs. 10,000, about Rs. 2,962 or less than 30 per cent. will remain in the hands of the male and the rest of the property goes to the daughter or son's daughter or son's son's daughter, and then to their daughter's daughters. So in another two generations there will be no male property owners remaining. Only women will be the property owners. This is the best case for the males. If the widow marries and takes away the property then the position is that out of the Rs. 10,000 the widow gets Rs. 4,000, the son gets Rs. 4,000 and the daughter gets Rs. 2,000. So, Rs. 4,000 goes away with the widow; Rs. 2,000 goes with the daughter; only Rs. 4,000 remain with the son.

After the son's death, his widow gets Rs. 1,400, his son gets Rs. 1,600 and his daughter gets Rs. 800. So, only Rs. 1,600 remains with his son.

In the third generation son's son's widow gets Rs. 640: son's son gets Rs. 640: son's daughter gets Rs. 340. So, in three generations out of Rs. 10,000 only Rs. 640 remains in the family for males.

So, it would have been much more honest and sincere, if this Government instead of bringing this complicated measure, had brought a measure providing that as males had been inheriting so far, now it was the time for the women. This is women's age and so henceforth women alone should inherit and men should be dispossessed and debarred from inheriting any property.

Sir, the question of Hindu law involved in this Bill is so complicated that only a Hindu lawyer, knowing Hindu law full well, and well up in the Shastric texts, could have done full justice in explaining the absurdity of the provisions contained in this Bill. I have already stated that I have got my shortcomings, and in the few words which I have spoken, I have shown to the House the absurdity of the propositions which have been placed before it, and I trust that this House will not accept the principles underlying this mischievous Bill, but will agree to the circulation motion which I have moved so that the country at large may have an opportunity also to consider this Bill fully along with the debates we have raised in this House on this Bill. They will consider this Bill in all its aspects and will give their opinion: then we will sit down and see in the light of the opinions then received whether the Bill is worth while proceeding with any further or if it is just fit for a decent burial.

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

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1943."

**Mr. Jamnadas M. Mehta:** Sir, last week the stage was well set for the motion for referring this Bill to the Select Committee. The Honourable the Law Member in a speech, which will be remembered with gratitude for his broad and catholic views, gave us an insight into the past law-makers' ideals, their successes, and their failures; the speech raised our self-respect and at the same time warned us that what was true at one time need not continue to be true today. There were also Honourable Members who had come with tailor-mades, with trousers without creases, and with smart flowers in their button-holes, which gave an impression of their being gallant champions of the rights of women: and finally, there was our very beloved sister, Mrs. Renuka Ray, the fair Portia, coming as a Daniel to give judgment over the rights and wrongs of women in this country. The Duke who said, "A Daniel come to judgment" was perhaps the Honourable the Law Member, Sir Sultan Ahmed. But this Duke warned us at the very outset of his speech that every true legislator should keep his mind open till the last moment. On all questions before this House, he said a legislator is in duty bound to keep an open mind till the last moment. His must not be a closed mind: a mind not playing to the galleries: That was the admonition which the Honourable the Law Member gave.

In that spirit as a legislator I want to make a few observations on this Bill; but before doing so, I say without hesitation that I admit and accept categorically the principle of woman's equality with men, and that there is nothing I will not do to satisfy women until they agree that they have now enough of it. Therefore, if I say a few words it must not be understood that I have any difficulty in accepting the principle of sex equality. And when I remember the

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three gentlemen, who are responsible for the drafting of the Bill—the Honourable Mr. Justice Rau, my friends Mr. Gharpure, and Mr. Joshi, as a Hindu I feel that my interests cannot be in safer hands. Therefore, both in principle and also in the light of my confidence in the gentlemen who have drafted this Bill, my sympathy and support will necessarily be for the principle of this Bill; but as a legislator I am bound to look at the other side and it is there that the real trouble comes. As soon as you tell the champions of the Bill that you want a little more time to consider it, they look askance at you; they stare you in the face as if to say whether you are after all a man with a sane head on your shoulders; they wonder whether you are not after all a reactionary in disguise and whether their reforming zeal is not being suppressed behind the wiles of reaction. This is the danger to reforms. Intolerance is the real danger. It is not the orthodox community which prevent the progress of reform in this country, education is abroad; the spirit of inquiry is abroad; and nothing can check it. But it will be checked by the intolerance and the narrow-mindedness of the reforming zealots. The people who have sponsored this Bill in this Legislature are not as tolerant as they might be. What was done on the first day of this debate? When the ex-President of the Hindu Mahasabha, our esteemed friend, Bhai Parma Nand was speaking, I found the supporters of the Bill making merry on some of his points, as if it was some drama where they had gone to enjoy some buffoonery. The gentleman who represents the Hindu community, more than all the women's associations in this country—he was scoffed at, laughed at and jeered at; because he pleaded for a different point of view, he was repudiated as the champion of the Hindu community that he has been serving for twenty five years.

**An Honourable Member:** Certainly not; he has not ceased to be the champion.

**Mr. Jamnadas M. Mehta:** That is what I am saying; but there were reforming zealots in this House who had only a button-hole flower and a smart suit to show themselves off as champions of the fair sex, without even knowing anything about Hinduism; and I object that this class of people should have the temerity to ridicule a man like Bhai Parma Nand. When Mr. Nilakantha Das was speaking, I found a similar spirit of levity . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member really can not go on lecturing the Members of the Assembly; it is not proper.

**Mr. Jamnadas M. Mehta:** What is not proper? I am entitled to comment on what they said and did to other Honourable Members.

**Mr. President** (The Honourable Sir Abdur Rahim): It is not proper to lecture the Members of the Assembly. The Honourable Member ought to have raised a point of order if there was any undue interruption or anything like that at that time; not now.

**Mr. Jamnadas M. Mehta:** But there was constant ridicule.

**Mr. President** (The Honourable Sir Abdur Rahim): Then the Honourable Member ought to have protested then. It is now too late.

**Mr. Jamnadas M. Mehta:** Is it, Sir? I am entitled to say that a certain expression of opinion was not allowed to . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member cannot go on making reflection on Members of the House.

**Mr. Jamnadas M. Mehta:** I am not reflecting upon any particular Member; I am not naming any particular Member; I am merely making a comment . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): It is worse. He is casting reflections on Members generally.

**Mr. Jamnadas M. Mehta:** I shall not name anybody and I shall be brief.

**Mr. President** (The Honourable Sir Abdur Rahim): It is not a question of whether the Honourable Member is going to speak at length or not; that is not the question now. The question is whether the Honourable Member is right in making reflections on Members of this House. If there was any point of order involved, he ought to have raised it then.

**Mr. Jamnadas M. Mehta:** I am only saying that Bhai Parma Nand deserved better attention. Am I not entitled to say that?

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has said enough on that point. I think the Honourable Member had better go on with his speech.

**Mr. Jamnadas M. Mehta:** I shall close this part of my argument by at least repeating and submitting to the House that the speech of my friend, Bhai Parma Nand, and the speech of my friend, Mr. Nilakantha Das, deserved better than the levity with which they were greeted. I have nothing more to say on that.

Now, coming to the merits of the motion for circulation, I have received two requests, one from Maharashtra and one from Guzerat. From Guzerat I have received a letter from the President of the Bhatia Hindu Stree Mandal. This lady who belongs to several women's associations in Bombay now pleads that they had not sufficient time, that they were not given any opportunity, that they want more time to study the Bill; and until they know what the Bill is and what the effect of the Bill on their well-being will be, time may be given for further consideration of the Bill. This lady represents an association of a community which has thousands of women, one of the richest communities in Bombay; and if the women are to get anything under the Bill, it is this community's women who will get it. Yet the president of the association called the Bhatia Hindu Stree Mandal, a lady, writes to me that she wants and her association wants more time to consider the implications of this Bill. May I know what right this cosmopolitan Women's Association has to say that these thousands of women should not be heard? Have they ever known the conditions in various parts of India? The champions of this Bill do not know. As a Guzerati, to which community I belong it will be to my financial interest to pass this Bill here and now; no Select Committee is needed. It will be definitely to the interests of the males and definitely against the interests of the females to pass this Bill—not merely refer it to Select Committee.

Why do I say so? Let me take a case: Recently, a Guzerati girl was married—the daughter of a millionaire. What did she get? Rs. 1,25,000 in cash, as a gift from the father; Rs. 50,000 more worth of jewels; more than Rs. 25,000 worth of silver, utensils, clothing and other equipment for the household; and for the rest of her life she will get Rs. 3,000 a year by way of clothing from her parents. In addition, there is not a single day in the calendar on which the sister, the daughter, their husbands, their children, their sons-in-law and daughters-in-law and their children are not entitled to some gift or another in the Guzerati community from the father. He need not have inherited one single rupee from the father but Guzerati social opinion is so strong, custom is so strong that law is nothing before it; and the man who will not give these gifts to his sisters and daughters will be considered as a miser and a shirker who does not meet his obligations. Are the framers of this Bill sure that these ladies who have got this particular privileged position today will, if the father makes a will, be entitled to even a farthing? Here, whether there is money or not, whether there is any will or not, what the law may not give, custom and social habit gives, encourages and perpetuates. These women from Bombay want to consider whether they will gain more under the Bill or lose more under the Bill. Is it at all wrong that they should be given time? Reformers, if they are true to their faith, should not be afraid at all. The real reformer is one who has enough faith in the mission of reforming doctrines. He must not feel that if the reform is not passed today, he is done for. There is something inherent, some momentum in the reforming spirit itself, which takes men along the stream. It is not a man here or a woman there that makes a reform; it is the spirit, the momentum of the principle of reform that gathers strength as it travels along. It has nothing to fear from a little delay.

Then there is another lady from Poona who is the President of the Hindu Women's Association all over India. I ask our very distinguished sister, whose speech was the best exposition, alike in accent, in polish of language and in the directness of thought—I can well appeal to her, will she not listen to the appeal

[Mr. Jamnadas M. Mehta.]

of another sister who says that the interests of Hindu women require that time should be given? You have never heard them before. Up till now, the enquiry was addressed to lawyers, law courts, and other distinguished persons. But the men and the women whom the shoe pinches—when they ask, "I may be given an opportunity to understand what my fortunes are going to be", is it really such an unreasonable request that there should be the least hesitation in passing my Honourable friend, Pandit Nilakantha Das's amendment?

What is three years in time? The English people, I think, took 300 years, 400 years before agreeing to the marriage of the sister-in-law when the wife had died. They were not in a hurry, and they were not any the less reformers. I will tell you, there was, not more than 15 years ago, a case in Delhi of a husband the first day after marriage having left the wife and gone away to Mandalay. Appeals were made to him to return. Some Arya Samajists went as far as Mandalay requesting him to return. The poor father of the girl went to him with a request to him to return. He said, "This girl is no longer my wife. I would not put her as my wife. She can remarry." But when the husband was alive how could a woman remarry? The Arya Samajists prepared a Bill that when the husband deserts a wife, if the wife marries after ten years, she will not be guilty of polygamy. When an Arya Samajist Conference sent me the text of that Bill I felt so much for the poor girl that I gave notice in this very Legislature to introduce the Bill. The Secretary of the Law Department called me. He said, "Mr. Jamnadas, the case you have quoted is heart-rending, but do you realise that if this girl is allowed to marry she will not be guilty of polygamy but her children will be illegitimate? They shall not inherit the property of their father. Mr. Jamnadas, don't run away with your emotions. With all these occasional victims of your marriage system, your marriage system is not so very bad as you imagine. It can stand comparison with many other marriage systems and we have our own complications in such cases." He ultimately was able to convince me and convince the girl. The girl then went to live with her sister and looked after the sister's children. Unhappily the sister died. The sister's husband said, "If I may be permitted, rather than create a scandal by keeping this girl in my house, I shall marry her." But the law prevented it, and that girl, a victim of the neglect of her husband, had to remain where she was, a victim to the narrow minded ideas of her husband, but none the less a victim. But was the remedy better? As the Law Department pointed out to me, the illegitimacy of the children would have been a standing blackmark on them, and it is better that occasionally an individual was sacrificed instead of tampering with the law of the community. From that day I have learnt to be cautious. It is not because I do not accept the principle—I am 100 per cent. in favour of the principle, but I do say that the House and the Government are bound to hear the other side. They have not heard the other side. And do you know, Sir, that in some communities where the women are given the right of inheritance, in order to keep the money in the same family the first cousins marry. Girls are not allowed to marry until they are very old and until they cease to be commodities in the marriage market. The idea being, not to allow the money to pass out of the family, the first cousin, however ugly, is often forced on the girl. I know of a Bombay family to-day, very prominent, rich, big merchants who are keeping their elder sister unmarried because they wanted her to marry the first cousin whose nose is ugly as, if she married him, the property will remain in the family; and this girl says, rather than marry this ugly man, I shall remain single.

**Sir Cowasjee Jehangir:** For my information, is not a will a remedy for all this?

**Mr. Jamnadas M. Mehta:** Yes. The Law does not come in the way of a Hindu making a will. I have said so.

**Mr. Hosseinbhoj A. Lalljee** (Bombay Central Division: Muhammadan Rural): That may be one exception.

**Mr. Jamnadas M. Mehta:** Such instances as I have mentioned are not few and far between. I do not want to make any personal comment. You will not perhaps like it. But the fact is there that girls are married in the family to first cousins because otherwise the money will go out. I am not talking of Mussalmans either. Don't try to wear the cap. Therefore, there is no finality in this matter. In Bombay there are Hindus, Christians, Parsees, Mussalmans; choose from them if you like. I have often read in the English humorist journals that the mother-in-law is the most unwelcome woman at the son-in-law's house. In our Hindu community the mother of the girl dare not enter the house of the daughter after her marriage because everything that belongs to her is prohibited to the mother. Even to stand on the carpet of the house is irreligious. But in other communities the mother that has given property to the daughter often goes to live with the daughter and becomes unpopular with the son-in-law, and I now realise why there is so much joking against the mother-in-law in the English families.

On all these grounds, and also on the ground that those who are asking for time are the people most vitally interested,—and this Legislature is not merely an ante-room for those who think that the reform must be done here or not at all—this Legislature must accord support to this principle of a little more time. The last and the most fatal argument against the motion is that in seven provinces there are Governors and no popular Governments. The Governors know as much about Hindu law as the man in the moon. The Governors of provinces are the last people qualified to pass any Governor's Bill in a matter of this kind, and until the restoration of provincial autonomy, in the interests of democracy this Bill must wait. As stated before I approve the principle of the Bill to which I give a hundred per cent. allegiance. But there are other principles—democracy,—the right of being heard by the other party, and the essential merits of the Bill which are by no means of one kind,—that I submit a dilatory motion is the only sound motion and the motion of Pandit Nilakantha Das is the only one we should adopt.

The Assembly then adjourned till Eleven of the Clock, on Tuesday, the 30th March, 1943.