

13th August 1943

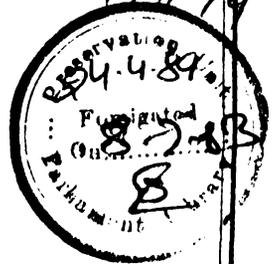
TO
THE LEGISLATIVE ASSEMBLY DEBATES

Official Report

Volume III, 1943

(26th July to 25th August, 1943)

EIGHTEENTH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1943



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LEGISLATIVE ASSEMBLY.

President:

The Honourable Sir ABDUR RAHIM, K.C.S.I.

Deputy President:

Mr. AKHIL CHANDRA DATTA, M.L.A.

Panel of Chairmen:

[From 27th July to 19th August, 1943.]

Syed GHULAM BHIK NAIRANG, M.L.A.

Mr. K. C. NEOGY, M.L.A.

Mr. HOOSEINBOY A. LALLJEE, M.L.A.

Sir HENRY RICHARDSON, M.L.A.

[From 20th August, 1943.]

Syed GHULAM BHIK NAIRANG, M.L.A.

Dr. P. N. BANERJEA, M.L.A.

Sir F. E. JAMES, M.L.A.

Secretary:

Mian MUHAMMAD RAFI, Barrister-at-Law.

Assistants of the Secretary:

Mr. M. N. KAUL, Barrister-at-Law.

Khan Bahadur S. G. HASNAIN.

Marshal:

Captain Haji Sardar NUR AHMAD KHAN, M.C., I.O.M., I.A.

Committee on Petitions:

Mr. AKHIL CHANDRA DATTA, M.L.A., *Chairman*.

Syed GHULAM BHIK NAIRANG, M.L.A.

Mr. M. GHIASUDDIN, M.L.A.

Sardar SANT SINGH, M.L.A.

Mr. N. M. JOSHI, M.L.A.

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LEGISLATIVE ASSEMBLY

Friday, 13th August, 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.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to a supplementary question to short notice question asked by Rao Bahadur N. Siva Raj on the 23rd September, 1942.

APPROVED CONTRACTORS OF THE CENTRAL PUBLIC WORKS DEPARTMENT.

The total number of Scheduled caste contractors on the approved list of the Central P. W. D. is 52, according to the classification given below :

Class	No. of Contractors.
I	1
II	6
III	25
Unclassified (Sanitary, Plumbing and Furniture)	20
Total	52

Information promised in reply to starred question No. 262 asked by Mr. Lalchand Navalrai on the 9th March, 1943.

LANDS AND CROPS SEIZED UNDER DEFENCE OF INDIA RULES IN SIND AIR FIELDS.

(a) and (b). The lands and crops were requisitioned on various dates since July, 1940. It would not be in the public interest to reveal the localities and areas involved.

(c) In the case of two *Talukas* of one district, the awards have not yet been prepared. Compensation for damage caused to crops has however been liberally assessed and will be paid shortly. In one *Taluka* of another district, the lands have since been restored to the owners owing to suspension of work. Compensation for damage to crops and lands is however being estimated and will be paid shortly. In two other districts no compensation for damage is due.

(d) A number of owners have applied for compensation for damages and arrangements to pay them are being made.

(e) Such notices were issued in three districts. In two of the districts, the amounts recovered are being refunded. In the other district, compensation was fixed after taking into consideration the owners' liability to pay Government assessment.

(f) Work has been suspended in certain areas and the lands have been restored to the owners who are free to raise crops on them.

Information promised in reply to the supplementaries to starred questions No. 339 and No. 341 asked by Qazi Muhammad Ahmad Kazmi on the 20th March, 1943.

SELECTION GRADE POSTS IN THE BINDING DEPARTMENT OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

No. 339.—About 10 years ago, the strength of operatives in the Bindery in the Government of India Press, New Delhi, was nearly 62, and there was then only one Bindery and Warehouse Foreman to supervise their work. The present strength is 107 including 20 temporary posts and the supervisory staff has been increased by 1 Bindery Jamadar and 1 Bindery Examiner. Unless the number of operatives increases further, there is no justification for making any addition to the present strength of supervisory staff.

ANNUAL ELECTION OF THE WORKS COMMITTEE OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

No. 341.—On enquiry it has been found that no complaint of the kind referred to was received by the Returning Officer.

Information promised in reply to supplementaries to starred questions Nos. 423 and 424 asked by Maulvi Syed Murtuza Sahib Bahadur on the 30th March, 1943.

PAUCITY OF MUSLIM OFFICERS IN THE PRINTING AND STATIONERY ESTABLISHMENT UNDER LABOUR DEPARTMENT.

The Honourable Member is presumably referring in these supplementaries to his starred question No. 426, about the appointment of Mr. B. C. Sen Gupta and a Muslim passed

apprentice as readers in the G. I. Press, New Delhi. As stated in reply to part (c) of the starred question No. 426, Messrs. Sen Gupta and Haq Talukdar passed their apprenticeship in the same year, viz., 1935, and the former was appointed by mistake on Rs. 200 but on discovery of the mistake was brought on to Rs. 100 in the appropriate scale. The latter was appointed as a reader in the Calcutta Press, on Rs. 100. No passed apprentice was appointed as reader in the New Delhi press on Rs. 50 in that year. As stated in reply to part (c) of the Question referred to above, these men have been promoted as Overseers in the scale of Rs. 225—15—300 (revised). Mr. Sen Gupta being senior to Mr. Haq Talukdar is officiating as Assistant Manager in the Calcutta Press in the scale of Rs. 360—20—500 (revised). If, however, the Honourable Member is referring to Mr. S. R. Haq, I may say that he completed his apprenticeship in 1939, and was appointed as Junior Reader on Rs. 55 in the scale of Rs. 55—3—85 (revised). Since the rules for recruitment of readers had come into force, according to which appointment of readers to grades above the lowest are to be made by promotion and regulated by seniority and merit, it was not possible to consider him for the post of a senior reader on Rs. 100 in the scale of Rs. 100—150—10—200 (revised). He is now officiating as overseer in the Calcutta Press in the scale of Rs. 225—15—300 (revised).

Information promised in reply to parts (c) to (g) of starred question No. 27 asked by Qazi Muhammad Ahmad Kazmi on the 26th July, 1943.

COMPLAINTS OF DETENUS IN BAREILLY JAIL.

- (c) No. None of these security prisoners have lost weight.
 (d) No.
 (e) No.
 (f) No.
 (g) No.

Information promised in reply to starred question No. 30 asked by Sardar Sant Singh on the 26th July, 1943.

RETIRED EUROPEAN AND INDIAN I. C. S. OFFICERS RE-EMPLOYED BY GOVERNMENT OF INDIA.

Statement showing the number of European and Indian I.C.S., retired officers re-employed by the Government of India and the salary as well as the pension drawn by each of them.

Department in which the officer is employed.	Name of the officer.	Pay and pension drawn.
Finance Department	Sir Alan Lloyd, C.S.I., C.I.E., Establishment Officer, Government of India.	Rs. 2,250 p. m. plus an annuity of Rs. 1,111/2/- p. m.
War Department	Mr. G. M. Young, C.I.E., Joint Secretary.	Rs. 1,000 p. m. plus full retiring pension.
War Department	Lt.-Col. A. C. Boynon, Additional Deputy Secretary.	Rs. 2,280 p. m. (The question whether he should draw his proportionate pension in addition is under consideration).
Information and Broadcasting Department.	Mr. P. J. Griffiths, C.I.E., Central Publicity Advisor to the Government of India.	Pension Rs. 696 p. m. approximately. Does not draw any pay.
Do.	Mr. S. S. Bajpai, Assistant Director, Counter Propaganda Directorate.	Rs. 800 p. m. plus a monthly pension of Rs. 200
Defence Department	Sir Colin Garbett, K.C.I.E., C.S.I., C.M.G., O.S.D., Defence Department.	Rs. 1,200 p. m. plus a pension of £ 1,000 per annum payable in England.

Information promised in reply to parts (a) and (b) of unstarred question No. 19 asked by Mr. Ananga Mohan Dam on the 28th July, 1943.

SPECIAL INSTITUTIONS FOR MUSLIMS UNDER CENTRAL GOVERNMENT AND EXPENDITURE THEREON.

(a) and (b). There are no special scholarships or special institutions for Muslims maintained or aided by Government in Ajmer-Merwara.

Information promised in reply to parts (d) and (e) of starred question No. 123 asked by Dr. Sir Zia Uddin Ahmad on the 30th July, 1943.

RAILWAY ACCIDENT NEAR BORGAON AKOLA.

(d) Yes. Mr. Abbas Ali Nazaf Ali was found dead, His body was taken away by Akbarali Abdul Ali, Tajria Pet, Akola.

(e) The Railway Administration report that up to the 23rd July, 1943, they had received no claim for compensation.

THE WAR INJURIES (COMPENSATION INSURANCE) BILL.

The Honourable Dr. B. R. Ambedkar (Labour Member): Sir, I move:

"That the Bill to impose on employers a liability to pay compensation to workmen sustaining war injuries and to provide for the insurance of employers against such liability, as reported by the Select Committee, be taken into consideration."

The principles which underlie this Bill have already been explained by me at the last time when the Bill was before the House and it is unnecessary for me therefore to traverse the same ground over again. I would briefly like to point out to the House the changes of principle which the Select Committee have made in the original Bill. The House must have noticed that although there are very many changes which the Select Committee has made there are really four which are matters of principle. In the first place there has been an enlargement of the category of workmen to which this Bill is made applicable; we have now included workmen employed in plantations. The second change made relates to the rate of the first contribution which is to be made to the insurance fund. The Bill as it originally stood permitted Government to levy a rate of annas eight per Rs. 100 of the wage bill of an employer; the Select Committee has reduced the rate from eight annas to four annas. The third change made relates to the use of the unspent balances in the insurance fund. The original proposal in the Bill was that the balance left in the fund should be merged in the general revenue and should be used for the general purposes of Governmental expenditure. The Select Committee has made a change and provided that the balance should be returned to the employers who have made the contribution in proportion to the contributions made by them. The fourth change relates to contract labour. It is now provided that in cases where the employer engages a contractor who in his turn engages workmen to carry out the work he has taken on contract, the employer who employs the contractor will nonetheless remain responsible for the payment of the compensation.

These are the principles which have been touched by the Select Committee in the changes which have been made. As the House will see, there are several amendments on the agenda to the Bill. Some of the amendments are matters of procedure and they have been put forth by Government largely for the purpose of meeting such criticism as was levelled against the Bill after it emerged from the Select Committee, and I hope there will not be much contention on these amendments.

Sir, I do not think it is necessary for me to say anything further on this Bill. I move.

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

"That the Bill to impose on employers a liability to pay compensation to workmen sustaining war injuries and to provide for the insurance of employers against such liability, as reported by the Select Committee, be taken into consideration."

Mr. O. C. Miller (Bengal: European): Sir, I have three comments only to make on this Bill and I would like to illustrate my first comment by an example. Two men are killed in the same street by the same bomb. Each of these two men was earning Rs. 60 a month before his death. One of them is a workman under the definition in this Bill and the other is an ordinary citizen. To the dependants of the workman the Honourable Member will pay Rs. 1,800 and to the dependants of the other person he will pay Rs. 720. This illustrates, I fear; the difference in the measure of generosity of the Honourable

[Mr. C. C. Miller.]

Member when he puts his hand into his own pocket and when he puts it into somebody else's; because we maintain that if the rates of compensation in this Bill are just and equitable,—and that we do not dispute,—then the rates of compensation in that closely allied measure, the War Injuries Ordinance, are parsimonious and niggardly. That is the last I shall say on that subject.

My second point relates to the financial arrangements of the Bill. Under the financial scheme Government have unrestricted powers or practically unrestricted powers to levy premia from employers. It is true that the first premium may only be levied at the rate of four annas per Rs. 100, but thereafter Government may levy at any rate they choose. It is also true that premia can only be levied once every quarter but if they wish to do so they can levy in every quarter of the year. In fact, Sir, Government have unrestricted powers and unrestricted security, because their security is the resources of all organised labour throughout India, and we feel that there must also be some security for the contributors to the scheme, that is, employers. Either the residue in the fund when all claims have been met after the war should be returned to them, or there should be a statutory enactment protecting them from over-levies. With either solution we should be content, and I hope that one or other solution will be reached during the course of the debate. But in this connection, Sir, if I may interject for a moment, I should like to inform the Honourable Member that we come here as co-operators and we ask for co-operation in our turn and for fair give and take. We cannot but think that sometimes in his approach towards us he is a little like the schoolmaster: one hand may be extended but the other hand is behind his back and we think we see the end of the cane beneath his gown. We may be wrong, but that is our impression.

My last point is that we cannot agree that it is a right principle that moneys should be exacted for one specific purpose and that the residues of moneys exacted for that purpose but not used for it, should be devoted to a completely different purpose and one which is not specified in the title of the Bill.

Mr. N. M. Joshi (Nominated Non-Official): When the Bill was discussed on the previous occasion I had supported the principle of the Bill. The Select Committee has made certain changes. I shall only deal with one change which the Select Committee has made, namely, it has extended the application of the Bill to workers working on plantation. I am grateful to the Select Committee for making this change.

Dr. P. N. Banerjee (Calcutta Suburbs: Non-Muhammadan Urban): That was made on your suggestion which you made in the Assembly.

Mr. N. M. Joshi: And therefore I express my thanks to the Select Committee. But the Select Committee should have accepted my wider proposal, namely, that this Bill should have been applied to all those workmen who are covered by the Workmen's Compensation Act. I feel, Sir, there is really no difficulty in accepting the application of the provisions of this Bill to all the workmen who are covered by the Workmen's Compensation Act.

Then, Sir, I had suggested that there should be no exception made of the workers working under the Crown, that is, in factories owned by the Government. The Select Committee did not accept my suggestion in that respect also. I find from the amendments of which notice has been given by the Government that they propose to accept that suggestion. I am also very grateful to Government for having learnt wisdom, though late.

Sir, I would like to make one remark on the point raised by my Honourable friend, Mr. Miller. He said that this Bill discriminates against an ordinary citizen in the matter of compensation given for war injuries as compared to a workman working in those undertakings which are covered by this Bill. Sir, I feel that the Honourable Member is really opposing the original Workmen's Compensation Act. The original Workmen's Compensation Act itself has made a difference between an ordinary citizen and a workman. An ordinary

citizen has to go to ordinary Court of law for the injuries suffered by him and try his luck in the ordinary Court of Law. A workman can get his compensation under the Workmen's Compensation Act—a special Act. Therefore when he points out the discrimination made, it was made when the original Act was passed and he is in my judgment rather too late in taking an objection to this Bill on that ground.

Mr. C. C. Miller: Might I interrupt for a moment? The Workmen's Compensation Act covers workmen who are damaged during the course of their employment. This covers workmen who suffer a war injury and that war injury may be suffered away from the place of work.

Mr. N. M. Joshi: This Bill goes a little further in that respect than the Workmen's Compensation Act, but the principles of the Workmen's Compensation Act having been accepted, it is too late now to object because the Workmen's Compensation Act itself discriminates between an ordinary citizen and a workman covered by the industries to which the Workmen's Compensation Act applies. As a matter of fact, there is discrimination in the Workmen's Compensation Act between a workman who is covered by the Workmen's Compensation Act and a workman who is not covered by the Workmen's Compensation Act. Therefore, Sir, his objection is not valid. I propose to support the motion moved by the Honourable the Labour Member.

Mr. Abdur Rasheed Choudhury (Assam: Muhammadan): Sir, we are living in a strange age. While the scientists are busy making new discoveries and the war lords are making new killing machines, our lawyers are not lagging behind. They are bringing forward laws after laws in quick succession.

Sir, I wish the provisions of this Bill were incorporated rather in an Ordinance than in a Bill, because the Ordinance is a lawless law and under Ordinance everything is legal and lawful whereas that is not the case with a Bill. In order to make a Bill and make it legal, its provisions must have some moral backing. Otherwise it becomes an Ordinance.

Sir, this Bill has not been circulated for the purpose of eliciting public opinion, but it was sent to the Select Committee. The Select Committee brushed aside the question of circulation in an extraordinary way. They say:

"We considered whether we should provide that the Scheme should be published for consideration before being made and put into operation, and whether the rules should be required to be made after previous publication. We rejected the proposal, as being conducive to undesirable delay once the Bill is enacted."

Is this a reason for not circulating an important Bill like this for public opinion. They support their case by saying that "although we do not circulate the Bill, we think the purpose of circulation will be served if it is referred to the All-India Association of Employers and Employees." Now, Sir, very few people out of us know what this Association of employers and employees is and who are its members. How many employers are represented on this? The Bill is making its provisions lawful in the case of every employer, but, Sir, I do not know what percentage of the employers are members of this body, and I doubt whether any reference to this association will mean reference of the Bill for eliciting public opinion.

Sir, when I come to the preamble I find that the Bill is enforcing a liability on the employers in respect of the war injuries. Who are these employers and what have they got to do with the war injuries? What voice had they in war injuries? Are they responsible for any war injury in any way for which they are forced to pay compensation? That is the question I would like my Honourable friend on the Treasury Benches to answer. It is like this: They kindled the fire and it has spread to the inhabitants of the village, and the owner or landlord is told "You must pay for the damage done". The man has nothing to do with the fire but still he has got to pay; that is the strange thing about it; he is made to pay by the Government, and even for the sake of courtesy the Government are unwilling to pay any part of the compensation themselves. The Government may say "Well, we are giving you the protection of our police and the magistracy who give you peace and tranquillity

[Mr. Abdur Rasheed Choudhury.]
and all those things and therefore we are entitled to get a portion of our damages from you". But they must also pay a portion, otherwise how can they enforce it on these innocent employers? They have got no hand in throwing bombs on a village or anything like that. Why should they be made liable for payment of war injury and not the Government? If the Government said "We will also pay something", then there may be some consolation; but the Government do not wish to pay anything and are forcing it on the employers, although the employers are innocent people having no say in the war or the war injuries.

Then again the Bill is silent as regards injuries sustained by employers themselves. The Government should say "We will compensate you for the injuries you have sustained." Suppose a bomb is thrown on a village and a zamindar's *cutchery* is burnt down, the Bill does not say that the Government will pay any compensation for the destruction of the *cutchery*. The whole thing seems to be a strange affair—something very hybrid.

Coming to the Bill itself, I must make it clear that I am not saying anything as regards payment of the compensation to persons who are victims of War injury, or about the amount that is to be determined to be paid. I am sympathetic there; I have every sympathy for the poor injured persons; I do not say a word about the payment to them of compensation; but in order to make it a law, you must make it pass for a law. There are some provisions which are very repugnant to the modern conscience. First of all, I refer to clause 13. The employers in this Bill have been depicted as so many felons or criminals or even worse than bad characters. Even the Penal Code has not gone so far; but in this Bill the employers are all treated as people who are the worst criminals. The employers pay income-tax, super-tax and excess profits tax and other taxes; they are in fact the real backbone of the Government; with their help the government is being run; but in this Bill they are not given any status.

Mr. H. A. Sathar H. Essak Sait (West Coast and Nilgiris: Muhammadan): Will the Honourable Member please explain where the status comes in?

Mr. Abdur Rasheed Choudhury: I am coming to that. If you look at clause 13

Mr. President (The Honourable Sir Abdur Rahim): Would it not be better if the Honourable Member discussed clause 13 when that clause is reached?

Mr. Abdur Rasheed Choudhury: He referred to it; but I am speaking generally. Here the Bill provides that if necessary there will be police investigation and the police will go and search a house and bring out all the papers and everything, as if the employers are people who require the chastisement of the police. When we were passing the Income-tax Bill the other year, a provision like that was incorporated in the original Bill but we protested against that provision because income-tax payers are men of culture and education and they do not require police chastisement, and so that was dropped. I hope the Honourable Member in charge will see that the employers are not treated as criminals by enforcing this clause. I find that in the Select Committee one member recommended that this clause should be omitted. I bring this to the notice of the Honourable Member in charge. If the whole of the clause cannot be omitted, I ask him that at least that nauseating provision about police investigation should be left out

Mr. President (The Honourable Sir Abdur Rahim): Is there no amendment to that effect?

Mr. Abdur Rasheed Choudhury: No.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member ought to have put down an amendment to that effect.

Mr. Abdur Rasheed Choudhury: This portion of the Bill requires recasting, and I hope, if not the whole of it, at least some portion of the clause will be omitted because after all police investigation in such matters is not helpful

either to the Government or to the employers; as is well known these investigations are made in such a way as to go against the employer and against the government. So I request the Honourable Member in charge to look into this portion of the Bill very carefully.

I next come to the question of enforcing this insurance by a notice of the Government in the *Gazette of India*. This Bill provides that as soon as it is notified in the Gazette, it will come into force. Now the India Gazette is a thing not easily available in outside places. In the whole of a district, probably it is only the District Judge who gets a copy of the Gazette; there are hundreds and thousands of employers who do not know when the Bill is coming into force; but as soon as it is published in the Gazette, they are liable to be penalised if they do not take out a policy under that section. What I would like is that as this is going to be something like an insurance, it should at least have the grace of insurance. The insurance companies generally fix a time for the payment of the premium, and then they give thirty days grace. If the date expires and the payment is not made within the period of grace, then only the penalty is imposed. But in this Bill no such provision has been made. It is in fact an insurance policy, but without the characteristic of insurance policies. That is jarring to the ears. The Honourable Member in charge should see that the employers get the days of grace as is the case in regard to insurance companies. Unless this is done, the Bill will operate as an Ordinance and not like an insurance measure.

Then one smaller point, and that is as regards the payment of premium quarterly. In the case of factory insurance the quarter has been taken to be from December to February and in others from January to March. This is an anomaly. If the quarter is to be taken, it should be defined as from January to March as is generally the case. I hope that my Honourable friend will take note of it. I have finished my remarks, Sir, with these few words.

Mr. H. A. Sathar H. Essak Sait: I rise to support the motion before the House. I am sure that the House realises the scheme underlying this Bill. The idea behind this Bill is that the employers should pay compensation for injuries sustained by their workmen during war exigencies. The Government is to collect the premium from the employers and distribute it to the employees whenever and wherever necessary. Having been a Member of the Select Committee I should not say it, but I cannot but mention that the Bill as it has emerged from the Select Committee is a better one than what it was before it went to Select Committee. Very many improvements have been made, some of them are very salutary. The Honourable Member in charge has mentioned some of these. One that is most noticeable is the inclusion of plantation labour in the scheme of the Bill. Certain smaller amendments have also been carried out which will be found by the House to be very useful. One that I want the House to notice is the one made in sub-clause 5(b), where better arrangements have been made for the quick payment of compensation by the Claims Officer to the dependants of those who have been injured or killed.

I cannot understand what lies behind the vehement attack made by the previous speaker, Mr. Abdur Rasheed Choudhury against some provisions of the Bill. He told us that the employers have been treated like criminals in certain clauses of this Bill. I certainly fail to see that; on the other hand, the provisions that have been made are very salutary and necessary. Our experience in the public life of this country has been all along unfortunately such that I think the provisions in clause 13 do not err on the side of stringency. I do not know what there is in it in order to attack it so vehemently.

My Honourable friend on the other hand made a good point with regard to the responsibility for these injuries. I agree with him that we live in strange times. Science has invented machinery for destroying life, and we in this House are asked to compensate people for destruction done by that machinery. That is the spirit of the times. I do not know whether Mr. Abdur Rasheed

[Mr. H. A. Sathar H. Essak Sait.]

Choudhury or anybody else in this House can do anything to set this thing right. Certainly the employer is not responsible for the injuries sustained by his employee by something which was done by a third party. But the fact remains that a poor man has sustained injuries; some poor dependants have lost their bread winner. And somebody or other must be found to pay compensation, and the principle that guided the framers of the Bill was that because the workman was all along of great use to the employer and the employer's gains were made largely with the help of these employees who have been injured or killed, therefore the employer must pay something out of his assets towards compensation for these injuries. It is not going the whole way as my Honourable friend, Mr. Abdur Rasheed Choudhury says. I agree with him that those war-mongers or those who are responsible for the war should be made to pay this compensation, but I think we in this House cannot at any time hope to achieve that power which is necessary to make these war-mongers pay. Therefore I think the Bill asks us to do the best that we can, and taking into account that intention the House should support the framers of the Bill.

I quite agree with the third point raised by my Honourable friend, Mr. Miller. He enunciated the principle—and I am fully in agreement with him—that monies raised for a particular reason by the Government should not be utilised for any other purpose. If this principle is not insisted upon there is no knowing that the money may be raised on some pretext, with the principle of which the House may agree and the House may be willing to grant as much money as may be required, and then the collections may be made far in excess of the needs and the balance may be diverted to some other purpose with which the House may not agree. Therefore I fully agree with the principle enunciated and I hope the Government will take note of it—that never should any measure be introduced in this House making a provision for the diversion of funds in their hands to purposes other than that for which they were intended. I do not know whether I should willingly agree to the compromise which appears to have been arrived at, looking at one of the amendments that have been tabled by the Honourable the Mover of the Bill. However, when that amendment comes we will see what the House does about it, but I agree with Mr. Miller's objection. Having submitted all these points I whole-heartedly give my support to the motion moved.

Mr. Hoosenbhoy A. Lalljee (Bombay Central Division: Muhannadan Rural): I do not think I have much to say but I should certainly once again point out, and everybody knows it, that this War Compensation Bill has been introduced at once by the Government at the instance of certain employers. It is not as if the Government in this case initiated it themselves. In fact, a certain industry did request the Government and the Government have been quite right in introducing legislation as soon as possible. All credit is due to Government for having brought it in. Another most important point our friends have to consider is those persons who have asked Government to provide for their workmen have not asked the Government to contribute anything. If there happens to be a surplus, surely who can be so ungrateful, if I may be permitted to use the word, as to say 'I shall not return back your money'. (An Honourable Member: "Distribute the small sums.") You cannot distribute the small sum. You can collect the small sum but you cannot return it back. That is a novel difficulty. Let the employers think of it. If the sum is so very small, those who have collected will devise ways and means. Furthermore do you think that those who pay lakhs of rupees willingly will not return it in some shape or form for some good work for the workmen. They come to you honourably and tell you 'We are going to pay'. Although you are not a contributory to it, still you want control over the money. As soon as the money comes, I will do what I like with it. I think this was discussed very fairly in the Select Committee. We must congratulate my Honourable friend Mr. Joshi who is all in all for labour. Here the industrialists voluntarily come forward and offer the help. Nobody says 'You are entitled to have

this back later on'; nor does Government say if necessary they will contribute something. Nothing of the sort. Not a word has been said. Then my friend Mr. Abdur Rasheed Choudhury has referred to clause 13. My friend Mr. Essak Sait has really not done justice to himself or to the Mover. Here again I give the money. I mean the industrialist. But what do we find. Under clause 13, power is given to the Labour Department such as the Finance Member has for income-tax purposes. My friend Mr. Essak Sait wants that any gentleman of the Labour Department can walk into my house or into any premises belonging to me under pretext of getting information.

Mr. N. M. Joshi: He can only walk in if you don't do your duty.

Mr. Hooseinbhoj A. Lalljee: Because may I say I have been fool enough to provide the money! Here is the Finance Member who has got a legitimate claim to tax the people when the money is required for the purposes of the people. Even he has got some regard. My friend the Home Member, even he has appointed an officer of the rank of Inspector but here my friend the Labour Member says 'You give me the money for labour welfare and I won't return it'. Not only that. I will appoint anybody to walk into your house, after giving only 48 hours notice. I say it is not honesty or a good principle. Even where there is legitimate claim, the Finance Member (I am sorry he is going away. I am paying him a compliment) will not put in those clauses. When we all complain about heavy income-tax, super-tax and excess profits tax, still the Honourable the Labour Member would like to have the money. At this time, my friend Mr. Essak Sait has made a speech which pains me a great deal. He says in this country people are evading income-tax, as if there are no such people elsewhere nor criminals in other countries, as if in other countries there are all people who come forward voluntarily and pay. Still he wants Government to go into our houses. Here the industrialists have voluntarily come forward and I am very sorry for the attitude of Government. I appeal to Government to be consistent with all that they have been doing with regard to income-tax and omit section 13. Otherwise no industrialist will come forward hereafter to help the Government or labour. Why should they? It is the industrialist who pays to Government for a specific purpose and if anything is left over, it is fair and equitable that it is they who must decide as to what should be done with their money. My friend Mr. Joshi says there will be difficulties but they will devise ways and means.

Mr. N. M. Joshi: 'They' means who?

Mr. Hooseinbhoj A. Lalljee: Those who have paid, not those who want to beg and pay.

Mr. N. M. Joshi: They are not organised.

Mr. Hooseinbhoj A. Lalljee: They are not organised but they can pay! You are organised and you want the money! This is not fair. And Government is not contributing a farthing. These are my general remarks.

Seth Yusuf Abdoola Haroon (Sind: Muhammadan Rural): I did not want to intervene in this debate but some remarks of my friend Mr. Lalljee force me to do so. Mr. Essak Sait was right in saying that in this country we try and evade income-tax as is the case in no other decent country.

Mr. Hooseinbhoj A. Lalljee: We are not discussing Income-Tax Act here.

Seth Yusuf Abdoola Haroon: I therefore think the Honourable the Labour Member has, with justification, come in with this clause which will authorise an officer to take action. The Labour Member is not going to set up an office as the Finance Member has set up for income-tax purposes. Naturally the Finance Member has got longer arms than the Labour Member. The Finance Member does not send any one to the premises. He gets the premises to himself. He gets to himself books and everything. It is worse than walking in. So, I think Mr. Lalljee should not complain about this clause.

[Seth Yusuf Abdoola Haroon.]

He should appreciate this clause and I think it is just the thing that should be done.

Mr. Amarendra Nath Chattopadhyaya (Burdwan Division: Non-Muhamadan Rural): Sir, as a Member of the Select Committee, I find there are three minutes of dissent. The object of this Bill is undoubtedly laudable and its principles have been accepted. The amendments which the Government has brought forward also lead towards the improvement of the Bill. I do not see that the objections raised by Mr. Hooseinbhoj Lalljee to clause 13 are really material objections. It is only a clause for the prevention of any attempt on the part of the employers to avoid payment. I think no reasonable employer will do this. In the minute of dissent I notice that sub-clause (3) of clause 11 has been brought into question by the Honourable Sir Sultan Ahmed, the Honourable Dr. Ambedkar and Mr. D. S. Joshi. They do not agree to what the Select Committee has done. They do not agree to this clause as it was re-drafted by the Select Committee. They consider, as originally proposed, any balance remaining in the Fund should be credited to the Central revenues and not repaid to employers. They agree that any balance can be utilised by the Central Government for the benefit of workers with the concurrence of the Legislature. At present there is no knowing what funds should be raised and neither can we say what should be the surplus. Consequently, those employers who had paid and if they found that they had paid sufficiently more than what was required, then as a matter of equity they had every claim to get it refunded. The question of utilising the money for the benefit of workers has failed. We do not know in which way to utilise it. If the situation was clearly visualised here, I would support it. But as matters stand at present, I think the clause, as amended, should stand.

As to Mr. Joshi's minute of dissent, I think it has already been accepted by the Government and I congratulate the Government for that. With these words I approve of the Bill as it has emerged from the Select Committee and with certain amendments which will be passed hereafter.

The Honourable Dr. B. E. Ambedkar: Sir, I do not think anything has emerged from the speeches which have been delivered by Honourable Members who have taken part in this debate which calls for any detailed reply. As I scrutinise the points made, I find that there were certain points which could have been relevant only at the time when the Bill was read for the first time. I remember that they were raised and I also remember that I attempted to give what reply I could at that stage. I do not wish, therefore, to spend any more time in discussing the thing over again.

With regard to the point that has been made with regard to certain specific clauses in the Bill as well as the amendments that are on the agenda paper, I think it would be best in the interests of economy of time that I should not devote any part of my speech to them at this stage. It would be germane, proper and relevant if the matter was taken up at the time when the amendments were moved.

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

"That the Bill to impose on employers a liability to pay compensation to workmen sustaining war injuries and to provide for the insurance of employers against such liability, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

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

"That clause 2 stand part of the Bill."

Mr. D. S. Joshi (Government of India: Nominated Official): Sir, I move:

"That in clause 2 of the Bill—

(i) in sub-clause (a), the word 'employer' be omitted; and

(ii) after sub-clause (a), the following sub-clause be inserted and the remaining sub-clauses be relettered accordingly:

"(b) 'employer' includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means the latter person while the workman is working for that other person."

The object of this amendment and some of the other amendments which stand in my name is to meet entirely the point of view stressed by Messrs. Miller, Gwilt and Sir Vithal Chandravarkar in their minute of dissent. The principal change which they desire is that the principal employer should not be made liable in respect of compensation to be paid to workmen employed by contractors. This amendment of mine with some other amendments seeks to meet that position. The definition of an employer originally was the same as under the Workmen's Compensation Act. A change is now necessary because the definition of an employer in the Workmen's Compensation Act includes a contractor who lets out or hires out labour. Under the proposals which would emerge if my amendments are accepted, the principal employer would no longer be liable in respect of even this class of contractors. Sir, I move.

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

"That in clause 2 of the Bill—

- (i) in sub-clause (a), the word 'employer' be omitted; and
- (ii) after sub-clause (a), the following sub-clause be inserted and the remaining sub-clauses be relettered accordingly :

"(b) 'employer' includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means the latter person while the workman is working for that other person'."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

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

"That clause 3 stand part of the Bill."

Mr. D. S. Joshi: Sir, before I move my amendment to this clause, I would like to make one representation to you. The amendment which stands in my name refers to sub-clause (2) of clause 12, that is to say, to clause 12 as it would be if my amendment No. 17 is accepted by the House. I leave it entirely to you, Sir, whether this amendment can be moved by me now or it may stand over until the amendment regarding clause 12 is moved.

Mr. President (The Honourable Sir Abdur Rahim): I think this clause had better stand over.

The Honourable Dr. B. R. Ambedkar: Sir, I have also an amendment to this clause.

Sir George Spence (Secretary, Legislative Department): May I suggest, Sir, that this clause might stand over as the Honourable Dr. Ambedkar's amendment is really later than Mr. Joshi's amendment. When one is left over, the other should also stand over.

Mr. President (The Honourable Sir Abdur Rahim): Clause 3 will stand over. The question is :

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5 was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim): Clause 6.

Mr. N. M. Joshi: Sir, I move :

"That for clause 6 of the Bill the following be substituted :

'6. This Act shall apply to all those workmen to whom the Workmen's Compensation Act, 1923, applies'."

Sir, my object in moving this amendment is to extend the application of this Bill to all classes of workmen who are covered by the Workmen's Compensation Act. Sir, this Bill applies to six classes of workmen, firstly, those

12 NOON. who are engaged in essential services, secondly, those who are employed in factories, thirdly, those who are employed in mines, fourthly, those who are employed in major ports, and fifthly those who are employed on plantations. Besides these, the Government of India have taken power to apply the provisions of this legislation to any classes of workers to which the Government choose to apply by notification in the official gazette. I feel, Sir, that there

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is no reason why we should apply the provisions of this Bill only to some classes of workmen who are covered by the Workmen's Compensation Act. I find there is no justification for making this discrimination. I am told that the Government of India do not apply this legislation to all the workmen covered by the Workmen's Compensation Act on account of the difficulty of establishing a system of compulsory insurance for a larger number of people.

Mr. President (The Honourable Sir Abdur Rahim): I find from the preamble that this Bill is confined to workmen sustaining war injuries.

Mr. N. M. Joshi: I am only talking of those workmen. Compensation is to be paid only in those cases. This is the only difficulty which I imagine Government may feel. In this connection I would like to say that the Government of India is rather modest and is suffering from want of confidence in itself. The Government of India, I do not know, whether it is a body of very capable persons or not, but generally speaking, we find that they are very able men; besides they have got a very able body of civil servants. It seems that they lack confidence not only in themselves but in their very capable civil servants to establish a system of compulsory insurance for a relatively small number of persons. I suggest to the Government of India that they should have a little more confidence in themselves, and a little more confidence in their civil servants. I therefore feel that the Government of India will do well to accept my amendment and I hope they will not create any difficulties which in my judgment do not really exist.

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

"That for clause 6 of the Bill the following be substituted:

"6 'This Act shall apply to all those workmen to whom the Workmen's Compensation Act, 1923, applies.'"

The Honourable Dr. B. R. Ambedkar: Sir, I am afraid I have to oppose this amendment. I think my Honourable friend Mr. Joshi will realise that my opposition is not based upon any want of sympathy for workmen.

Mr. N. M. Joshi: I did not say that.

The Honourable Dr. B. R. Ambedkar: I think my Honourable friend Mr. Joshi will realise that if his amendment is adopted, practically there would be a serious limitation imposed upon the number of workmen who would be entitled to the benefit of this Bill. First of all, Sir, as Mr. Joshi said, we must go rather cautiously in this matter because this Act presupposes that there is a body of organised employers on which this liability can be imposed. It is a question of collecting premia, and you cannot collect premia from people who are merely walking in the streets. You must have some organisation on which you can fasten this liability and one has therefore to go very cautiously including the number of workmen that could be included in this Bill. The second difficulty that I feel is this, that really speaking the acceptance of the amendment of Mr. Joshi would not enlarge the category of workmen which are included at present in this Bill. Sir, I have very carefully examined the Workmen's Compensation Act and I find that there are altogether nine different categories of workmen to which that Act applies. Comparing the categories of workmen to which we propose to apply this Act with the categories of workmen to which the Workmen's Compensation Act applies, I find that there is only one difference. The Workmen's Compensation Act applies to buildings and public works. That is the only category of workmen to which the present Bill does not apply. On others, both the Bills—the Workmen's Compensation Act as well as this Bill—are on a parity. Then the other difference is this. If we apply the Workmen's Compensation Act, as it stands, obviously that will bring in with it the definition of workmen which is given in the Workmen's Compensation Act. My Honourable friend Mr. Joshi will remember that the definition of workmen in the Workmen's Compensation Act is a very circumscribed and limited definition. It excludes from the category of workmen, workmen who are casual employees, and one does not know what would be the number of casual employees that may be employed in any particular industry to which

this Bill applies. My Honourable friend Mr. Joshi will also recollect that the Workmen's Compensation Act excludes the category of people who are employed in clerical capacity. Our Bill does not exclude either the casual employee or the people employed in clerical capacity. I think Mr. Joshi will agree that although on an examination he will find that some minor category of workmen has been omitted, the definition of workmen is much larger than what it is under the Workmen's Compensation Act. I hope that my Honourable friend will, on this assurance, withdraw his amendment.

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

"That for clause 6 of the Bill the following be substituted:

'6. This Act shall apply to all those workmen to whom the Workmen's Compensation Act, 1923, applies.'

The motion was negatived.

The Honourable Dr. B. R. Ambedkar: My next amendment No. 5 is dependent upon clause 3 which the House now agreed that it should stand over.

Mr. President (The Honourable Sir Abdur Rahim): Is this in substitution of the other amendment? Do I understand that if this amendment is carried, then in that case, amendment No. 3 to clause 3 will be unnecessary?

The Honourable Dr. B. R. Ambedkar: No, Sir. It is necessary. Both are necessary.

Mr. President (The Honourable Sir Abdur Rahim): In that case, I do not see why you cannot move this amendment now.

The Honourable Dr. B. R. Ambedkar: I will move this amendment No. 5 now. Sir, I move:

"That sub-clause (2) of clause 6 of the Bill be omitted."

Not much explanation is necessary in support of this amendment. As the House will recall, the clause as it stands makes the Bill exclude Government employees and railway servants from the application of this Bill. When I moved the first reading of the Bill I told the House that although this Bill did not apply to this category of workmen Government had made ample provision to pay compensation to their own servants. Unfortunately my speech evidently did not carry conviction to some Members of the House, and they still persisted that instead of taking responsibility in an administrative manner responsibility should be imposed by statute. Sir, I have thought it fit to accept the suggestion made and therefore I shall be at a later stage moving the amendment which stands in my name to clause 3. Sir, I move.

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

"That sub-clause (2) of clause 6 of the Bill be omitted."

Sir George Spence: Sir, I would ask you to add: "and that clause 6(1) be renumbered 6".

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

"That sub-clause (2) of clause 6 of the Bill be omitted and that clause 6(1) be renumbered 6."

The motion was adopted.

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

"That clause 6, as amended, stand part of the Bill."

Mr. N. M. Joshi: Sir, I do not propose to oppose this clause. But I would like to say that the Honourable Member would have done well to accept my amendment and that the arguments which he used in not accepting my amendment were not valid. He suggested that on account of my amendment the application of the Bill would be restricted, which is not true. He mentioned that this Bill applies to casual labour whereas the Workmen's Compensation Act does not apply to casual labour. But the casual labour is extremely small in all those industries to which the Workmen's Compensation Act applies. The same is the case about clerks. Take the textile industry; the number of clerks employed is extremely small. Therefore if he had accepted my amendment the benefit of this legislation would have been given to a larger number of workmen than he thought. I therefore feel that the Honourable Member when he finds time and when the system of compulsory insurance is established will use the

[Mr. N. M. Joshi.]

power which clause 6 gives him to apply the provisions of the Bill to other classes of workmen.

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

"That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as amended, was added to the Bill.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That to part (g) of sub-clause (5) of clause 7 of the Bill the following further proviso be added:

'Provided further that the rate of any periodic payment after the first shall not be higher than the rate estimated to raise the amount in the Fund after repayment of the advances, if any, paid into the Fund by the Central Government under sub-section (2) of section 11, to a sum of rupees fifteen lakhs.'

This Proviso is again intended to meet the fears of some of the Members representing the class of employers. It was feared by them that we might use the provisions of this clause as it stood originally to raise any amount of fund and to build it up when it was practically not necessary for the purpose for which that was intended. I had originally given an assurance on the floor of the House that it was not the intention of Government to use powers which they have got under this Bill to raise unnecessary fund to build it up and thereby inflict a sort of injury upon the employers. There again, Sir, my statement did not satisfy them, and I have thought it best to give them the satisfaction by introducing this clause. As will be seen, a limit has been placed of rupees fifteen lakhs upon the balance on the fund, and I think this amendment will be accepted by them in the spirit in which it is intended, namely, to appease those who feel jealous about the Government's power of taxation. Sir, I move.

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

"That to part (g) of sub-clause (5) of clause 7 of the Bill the following further proviso be added:

'Provided further that the rate of any periodic payment after the first shall not be higher than the rate estimated to raise the amount in the Fund after repayment of the advances, if any, paid into the Fund by the Central Government under sub-section (2) of section 11, to a sum of rupees fifteen lakhs.'

The motion was adopted.

Clause 7, as amended, was added to the Bill.

Mr. D. S. Joshi: Sir, I move:

"That the proviso to clause 8 of the Bill be omitted."

The proviso reads thus:

"Provided that no person or firm shall be so employed unless that person or firm is a member of an association prescribed in this behalf."

When the Bill was drafted it was not known to Government that the Bombay Millowners' Mutual Insurance Association which insures its members against liabilities under the Workmen's Compensation Act is not a member of any association of insurance companies. It is not intended to exclude the appointment of that Association from the scheme to be made under this Act. It is therefore necessary to omit the proviso which was first included in the Bill. The intention of course is not to appoint any mushroom company or any person as agent but to remove the limitation under which it could not have been possible to appoint the Bombay Millowners' Mutual Insurance Association as agent.

Sir, I move.

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

"That the proviso to clause 8 of the Bill be omitted."

The motion was adopted.

Clause 8, as amended, was added to the Bill.

Mr. Abdur Rasheed Choudhury: Sir, I do not propose to move amendment No. 9 on the consolidated list of amendments, but I will move No. 10.

Sir, I move:

"That in sub-clause (2) of clause 9 of the Bill after the word 'fails' occurring in the second line the words 'after due notice' be inserted."

Sir, there is a special purpose in moving this amendment. At the time of passing the Factories Insurance Bill it was found that after the due date fixed

for Factories Insurance there were many concerns who were under the impression that they had factories insurance in ordinary insurance companies and they were not liable for new factory insurance. In certain cases six months and nine months after the due date it was found that even though people had got their factories insured in insurance companies they were also required, according to the provisions of the Act, to get a new insurance policy. It may occur in this case also. Many people may not know when this is going to be enforced. It is quite reasonable that some sort of notice is published so that the people under the liability of taking insurance may know definitely that they have got to get insurance policy under this Act.

Sir, with regard to payment of premium, in the case of ordinary insurance, the insurance companies give a notice. In order to bring this into line with other insurance, I think a notice like that should be given under this measure also. Sir, I move.

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

"That in sub-clause (2) of clause 9 of the Bill after the word 'fails' occurring in the second line the words 'after due notice' be inserted."

The Honourable Dr. B. R. Ambedkar: I appreciate the force of the necessity of giving some notice, but I would like to inform the Honourable Member that there is a provision for notice, although that provision does not appear in the Bill itself. He will realize that the important words in the body of clause 9 are 'in accordance with the scheme'. If my Honourable friend were to turn to clause 9—I am sorry that is the reason why he has moved this amendment—and see the terms of the scheme itself, I assure him that he will find there is a clause—which at present is clause 1 (viii) (a) of the draft scheme—which provides for 15 days notice. I think my Honourable friend on this information will withdraw his amendment.

Mr. Abdur Rasheed Choudhury: Sir, I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. Abdur Rasheed Choudhury: Sir, I move:

"That in sub-clause (2) of clause 9 of the Bill after the word 'punishable' occurring in the fourth line the words 'after thirty days of grace from the due date of payment' be inserted."

Sir, I think it should be brought into line with other insurance. It is a common practice that all insurance companies allow a period of 30 days grace after the due date, and I think it is quite reasonable to bring this to the notice of the Honourable Member and request him to accede to this concession. Sir, it is true that composition of offences—clause 16—has been provided for in this Bill, i.e., if anybody does not pay his premium in time he can compound it, but in each case he has got to compound it by making additional payment. In order to avoid this additional payment, I would like to bring it to the notice of the Member in charge that this Bill will look better and it will be more in line with other Bills if the period of grace—namely 30 days—which is allowed by other insurance companies, is provided in this Bill also. Sir, I move.

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

"That in sub-clause (2) of clause 9 of the Bill after the word 'punishable' occurring in the fourth line the words 'after thirty days of grace from the due date of payment' be inserted."

The Honourable Dr. B. R. Ambedkar: Sir, I rise to oppose the amendment. I do not see any necessity for conceding the point which my Honourable friend is trying to make. As I pointed out to the House, we have already made a provision for notice, which is a period of 15 days, and I do not understand why my learned friend should contend for an additional privilege which will extend a further period for a recalcitrant employer. If we had not provided for notice in our scheme, I could have well understood the justice of a claim for a period of grace. But if my learned friend will allow me to say so I really see no distinction or it is rather a distinction, without difference, between period of notice and period of grace.

Mr. Hooseinbhoj A. Lalljee: Sir, I think the request which my Honourable friend, Mr. Abdur Rasheed Choudhury, made was a very fair one. Sir, when the scheme was made originally, my Honourable friend will agree that it was intended that large employers of labour would most probably be the parties who would be called upon to pay this compensation or pay the deposit against compensation. He has very rightly brought in all the classes, but, Sir, when you rope in a large number of people to pay certain compensation deposits, it is but fair that you should give them some period of grace because in ordinary cases, as my Honourable friend Mr. Rasheed has rightly pointed out, although you are insured for one month without paying the premium, the insurance company allows you that period. After all is said and done, in business life one has got to make arrangements and when we are bringing in so many people, I do feel that it will not matter very much if 15 days notice and 15 days grace period is allowed. I like the word 'grace' rather than the word 'notice' in all 30 days for the simple reason that grace 15 days is a thing which is absolutely a thing which the Government can give in their grace. Therefore I think in all fairness he will not be led by friends who believe that we in India are more dishonest than others in the world at large.

The Honourable Dr. B. E. Ambedkar: I am prepared to allow them fifteen days grace in the scheme, Sir.

Mr. President (The Honourable Sir Abdur Rahim): I take it the Honourable Member does not press the amendment?

Mr. Abdur Rasheed Choudhury: In view of the assurance, I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. D. S. Joshi: Sir, I move:

"That to clause 9 the following sub-clause be added:

'(3) This section shall not bind the Crown nor, unless the Central Government by notification in the Official Gazette otherwise orders, any Federal Railway.'

If the amendment to clause 3, standing in the name of the Honourable Dr. Ambedkar, is passed, the liability to pay compensation in respect of its employees shall also fall on the Crown. It will not, however, be necessary for the Crown to insure itself against its liability, nor, I submit, would it be necessary to require ordinarily any Federal Railway to insure. I move.

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

"That to clause 9 the following sub-clause be added:

'(3) This section shall not bind the Crown nor, unless the Central Government by notification in the Official Gazette otherwise orders, any Federal Railway.'

The motion was adopted.

Clause 9, as amended, was added to the Bill.

Clause 10 was added to the Bill.

Mr. D. S. Joshi: Sir, I move:

"That to sub-clause (1) of clause 11 of the Bill the following proviso be added:

'Provided that no payment from the Fund shall be made in discharge of any liability of the Crown to pay compensation to workmen employed by it.'

The intention of the amendment is that the Crown shall not utilise any part of the insurance fund for payment of compensation to its own employees. The Crown will have a double liability—firstly, in its capacity as an employer, and secondly, in its capacity as an insurer. This amendment will make it quite clear that the fund shall not be drawn upon to pay compensation in respect of its own employees, as the Crown will not contribute to that insurance fund. Sir, I move.

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

"That to sub-clause (1) of clause 11 of the Bill the following proviso be added:

'Provided that no payment from the Fund shall be made in discharge of any liability of the Crown to pay compensation to workmen employed by it.'

The motion was adopted.

The Honourable Dr. B. E. Ambedkar: Sir, I move:

"That for sub-clause (3) of clause 11 of the Bill, the following be substituted:

'(3) If when all payments which have to be made out of the Fund have been defrayed, any balance remains in the Fund, the balance shall be constituted into a Fund to be utilised and administered by the Central Government for the benefit of workmen.'

As I pointed out, the original position when the Bill was introduced was that the balance was to be utilised for general purposes of Government and was to merge in the general revenues of the Government. The Select Committee altered that clause and provided that the balance, if any, should go to the employers who have contributed to this fund, in proportion to their contribution. The amendment which I am moving is an amendment which is, if I may say so, a midway house between the two positions. It suggests that the fund shall not be utilised by the Government for its general purposes, nor shall it be returned to the employer, but it shall be treated as a sort of trust fund to be utilised and administered by the Central Government for the benefit of workmen. I thought that this was a very reasonable compromise and that the whole House would accept it without demur. But I find that there are still some in the House who are not satisfied with the position outlined in this amendment. The grounds on which I justify the amendment standing in my name are, in the first instance, these. I think it will not be denied that whatever contributions the employers may make to the insurance fund, it will be treated by the Finance Department as revenue which will be revenue for which credit will be given by the Finance Department. It is really revenue which would in the ordinary circumstances go to the Government of India in the form of income-tax and excess profits tax. Therefore I have no hesitation in submitting that a very large bulk of this fund is really fund which belongs to the Government; and if Government had in the first instance stated that they would get and utilise what is theirs, I do not think there was anything very serious to challenge that position. But as I stated, I have receded from that position, and I am prepared to allow this fund to be treated, not as general revenues, but as a credit fund to be utilised for the benefit of workmen. The argument which I have heard in the lobby and which seems to have prevailed upon some Honourable Members who are not satisfied with the position taken here, appears to me to be this. They seem to think that this is the thin end of the wedge, that the Government is really establishing a precedent for making a levy on the industry for the benefit of labour. I do want to disabuse the minds of Members who entertain that sort of fear. I have assured them before this, that Government has no intention of making unfair use of this clause by taxing an industry with the object of raising a fund for purposes for which it is not mainly required; and I would also like to assure Honourable Members who entertain that kind of fear that it is unnecessary for Government to seek or to make any clandestine attempt to establish a precedent. Government has ample power and there are precedents which have been laid down already by laws, both here and in England, whereby it is possible for the State to impose a special cess for the benefit of labour. We have got in this country the coal cess and the coke cess, which is a levy on industry and which is utilised for the purposes of the industry or those who are being served by that industry. In England we have a case in the Coal Mines Act whereby a specific levy is made on the industry; the fund collected by the levy is kept aside for the purposes of labour welfare. Therefore I do want to assure Honourable Members that there is no intention to attempt in a clandestine manner to establish a precedent. Our intention is to support labour and I do not understand why many employers who have always exhibited such kind interest in supporting schemes for the welfare of workmen serving them should in any way hesitate to accept the amendment which I am moving. Sir, I move.

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

"That for sub-clause (3) of clause 11 of the Bill, the following be substituted :

'(3) If when all payments which have to be made out of the Fund have been defrayed, any balance remains in the Fund, the balance shall be constituted into a Fund to be utilised and administered by the Central Government for the benefit of workmen.'

I find there are two other amendments to this sub-clause. If Honourable Members who have given notice want to move them, those amendments ought to be moved now and then there will be discussion on all the amendments.

Mr. T. Chapman-Mortimer (Bengal: European): I move:

"That in sub-clause (3) of clause 11 of the Bill, for all the words occurring after the words 'any balance remains in the Fund' the words 'the balance shall be paid into general revenues' be substituted."

Sir, I have listened with very careful attention to what the Honourable the Mover of amendment No. 14 said. I should like to take this opportunity to assure him that the reasons for our objection to his proposals are not the reasons which he has given. He has suggested that some employers are disturbed because Government propose to use this money for the purposes of labour and are proposing to establish a precedent. He has pointed out that there are cases both here and in England where levies are made for special purposes connected with labour. Now, Sir, that is not our objection to Government's attitude at all. He has, if I may say so, got hold of the wrong end of the stick. The first point we should like to make is this. We consider that Government's proposal marks a very important departure from the original proposals of this Bill. This Bill is not a tax measure at all, nor is it a measure for the benefit of labour. It is an insurance Bill limited to war risks, so that what my Honourable friend proposes now is a definite departure from the original purpose. Secondly, and much more important from our point of view, what he proposes to do raises a very large question, namely, the question of whether surplus funds raised by Government for some specific purpose, if not used for that purpose, should be earmarked for Government's future use in some specific direction. I for one strongly feel that the principle long adopted both in the United Kingdom and in this country, *viz.*, that funds which had been raised for one specific purpose, if not used or required for that purpose, should revert to general revenues—is right. This is purely a constitutional or financial principle and has nothing whatever to do with our feelings towards labour or towards any other purpose. It is I am sure not the wish of any employer that labour should be deprived of some 10 or 15 lakhs of rupees. Not at all; on the contrary, a very large number of employers have suggested that this money *should* be used in just the way as my Honourable friend, Dr. Ambedkar, has suggested. But our objection to it is one of principle. We feel that the correct way to use funds of this kind is either to use them for the purpose for which they are intended or to transfer them to the general balances of the Government. It is for that reason that I want the House to support my amendment No. 15. Sir, I move.

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

"That in sub-clause (3) of clause 11 of the Bill, for all the words occurring after the words 'any balance remains in the Fund' the words 'the balance shall be paid into general revenues' be substituted."

Mr. H. A. Sathar H. Essak Sait: I am not moving amendment No. 16.

Mr. N. M. Joshi: I rise to oppose the amendment moved by my Honourable friend, Mr. Chapman-Mortimer. He seems to be under a misapprehension regarding the objects of this Bill. He said that the only object of this Bill is to establish compulsory insurance. That is not so. The Bill has a twofold object, first, to provide for compensation, and secondly, to provide for insurance for the proper payment of the compensation. Therefore, if the balance is utilised for the welfare of labour, it will not be wrongly used. The money is intended for the welfare of labour, and therefore, if the balance is spent on that purpose Government will not be doing anything wrong. Then I do not know if the money is given to the Government and Government spends it on unknown objects because we do not know what the Government may spend that money on, how it can be said to be spent rightly. I think, therefore, that representatives of labour here should not object to the amendment proposed by the Honourable Member in charge of the Bill.

Seth Yusuf Abdoola Haroon: As far as the amendment of Dr. Ambedkar goes, we are supporting it, but as a matter of principle we would not support that revenues so collected for a single object should be given to any other account. But as Dr. Ambedkar has limited now the provision I think we

will not be against the money being spent for the welfare of labour. But the principle is wrong as far as it goes. I feel that the Government should not have done this.

Mr. Abdur Rasheed Choudhury: I would also oppose the amendment of Mr. Chapman-Mortimer. The fund that is collected under this measure will be collected for some specific purpose, that is, giving compensation to workers who suffered war injury. It will be a very bad thing if this amount is transferred to the general revenues and utilised for some other purpose. The best thing would have been, as was put in the Bill by the Select Committee,—that is, after paying all compensation and after paying all expenses, the amount, if any, remaining as balance was to be transferred to the person who contributed to this fund. That would have been the best thing. The next best thing is to utilise the fund as proposed by the Honourable Member in charge in his amendment now. But there is no iota of reason why this fund should be transferred to the general revenues. I think it is due to the over-zealousness of my Honourable friends that they want to transfer this fund to the general revenues. Sir, I oppose.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): The amendment of Dr. Ambedkar seems to be this, that the funds that will be raised will be raised to such an extent that after giving the insurance compensation there will be a balance of not more than 15 lakhs. If that is so, then the only question is for what purpose the balance will be utilised. It is said that the money will be utilised for the welfare of labour. That is really a good object but the objection raised is why should the money be utilised through the Government. It is said that some labour organisation might be given the money, Mr. Joshi preferably, so that it might be used according to the intention of labourers' unions or the workers themselves. This money is to be used for the welfare of labour. I think their amenities and their requirements and their difficulties, for which they want some money, will be met better by another institution instead of the Government itself.

Now, Sir, welfare is a very large word and it may be interpreted in several ways. Unless and until that is specially laid down what welfare means, there should be a condition that the money should be given back to the Government. The Honourable Member should make it clear what he means by welfare. We have known that the Government have many ways of interpreting it. Sometimes they put an interpretation which is absolutely abnormal and then they will say that that is their meaning of it. I agree with this amendment but I would like this matter to be elucidated.

Mr. H. A. Sathar H. Essak Salt: Having referred to this matter when I was speaking on the motion for consideration, I think I will make our position clear on the subject. Amendment No. 1 on the Supplementary List No. 1, that is, the amendment to clause 7 which was moved by my friend Dr. Ambedkar and the amendment that has been moved now, these two go together and they form a scheme. The objections against the provision in the Bill as it was introduced in this House were clearly mentioned by my friend Dr. Ambedkar but I do not think that he was fair to the people who objected when he said that the objection depended on the fear that this was the thin end of the wedge. In my speech on the consideration motion, I said that the objection raised was on the ground that this was introducing an undesirable principle in legislation. The principle that we feared that this legislation was bringing in was that money raised for one purpose may be diverted for other purposes. Without the limitations that these amendments put, there was a fear that the money collected may be far in excess of the needs of the situation. It was possible under the Bill as it then was to collect crores of rupees and then divert them for purposes which were not intended by this Bill. Therefore it was that some of us objected to this provision of the Bill. Now, the principle is still there, to which objection was taken and to which we still take objection but the mischief of it has been limited to the extent of not more than 15 lakhs. I quite

[Mr. H. A. Sathar H. Essak Sait.]

realise that it will be difficult for the Government to return this small amount of something less than 15 lakhs to the contributors to the fund. It will be administratively very difficult and therefore I have no objection in agreeing to the amendment of Dr. Ambedkar and I do not think that my friend Mr. Chapman-Mortimer wishes to press his amendment after the amendment of Dr. Ambedkar. Still it is a good thing that he moved it because it gives us scope for discussing the whole question.

Dr. Ambedkar incidentally referred to the cesses that the Government has a right to raise for special purposes. We do not object to that. If Dr. Ambedkar comes up tomorrow to this House with a Bill whose object is to raise some cess for the benefit of labour or, for the matter of that, for the benefit of any poorer section of the community, we on these Benches will surely give it our whole hearted support. We do not object to that but our objection, as I stated, was to the pernicious principle that this Bill was trying to introduce but as the mischief of it is now limited, I support Dr. Ambedkar's amendment.

The Honourable Dr. B. R. Ambedkar: Sir, the point made by my Honourable friend, Mr. Chapman-Mortimer seems to be this. He says that we are changing our purpose. Originally the fund was intended to be used for the purpose of paying compensation. We now propose to use the balance of it for welfare. No doubt this is a change of purpose but I still maintain that there is nothing improper in that. If I understood him correctly, the position of Mr. Mortimer seems to be this. He seems to be following what I must concede is a well established principle in the budgetary arrangement, namely, that when money has been sanctioned by the legislature for a particular purpose it ought not to be spent for another service not included within that purpose. I entirely agree but that is a matter which relates to executive action. I do not propose to use the fund by executive action but it is because I do not wish to be guilty of any impropriety that I have come to the House for asking its sanction for allowing the balance to be used for some other purpose which the House entirely agrees to be a beneficial purpose. I, therefore, submit that there is no impropriety in changing the purpose inasmuch as we are asking for the legislative sanction of this House for the change of purpose.

Then, the point has been raised that the word 'welfare' is an omnibus word. I agree that it is an omnibus word and I do not know if I am in a position to specify items which will be included in the term "welfare" on which there can be expected to be unanimity in this House. I shall, therefore, not venture to particularise what would come under the term "welfare". But I would say this to those Honourable Members who do not know what is meant by "welfare" as well as to those Honourable Members who think that Government ought not to be entrusted with a responsibility for administering this Fund that they will realise that the matter, with all this, is still left in the hands of the House. The House will have many more opportunities on various occasions to raise this question as to how this money is to be utilised and I am sure many Honourable Members who know what is "welfare" or who have ideas on it will use that opportunity to inform Government as to how that money would be utilised. Sir, I think the House will be well advised in accepting my amendment.

Mr. President (The Honourable Sir Abdur Rahim): I will put Dr. Ambedkar's amendment first. The question is:

"That for sub-clause (3) of clause 11 of the Bill, the following be substituted:

'(3) If when all payments which have to be made out of the Fund have been defrayed, any balance remains in the Fund, the balance shall be constituted into a Fund to be utilised and administered by the Central Government for the benefit of workmen.'

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The other amendment, therefore, falls.

Clause 11, as amended, was added to the Bill.

Mr. D. S. Joshi: Sir, I move:

"That for clause 12 of the Bill the following clause be substituted:

'12. (1) Where a person (in this section referred to as the principal) uses, in the course of or for the purposes of his trade or business, the services of workmen temporarily lent or let on hire to him by arrangement with another person with whom the workmen have entered into contracts of service or apprenticeship, or in the course of or for the purposes of his trade or business, contracts with any other person for the execution by or under such other person of the whole or any part of any work which is ordinarily part of the trade or business of the principal (either such other person being in this section referred to as the contractor) the principal shall obtain from the contractor the name of the agent of the Central Government acting under section 8 with whom he intends to insure, and shall, report to that agent the existence of his arrangement or contract with the contractor.

(2) Notwithstanding anything elsewhere contained in this Act, in any such case as is referred to in sub-section (1), it shall not be necessary for the contractor to insure against the liabilities imposed on him by this Act, in respect of workmen employed by him whose services, are lent or let on hire on such an arrangement or used in the execution of work on such a contract as is referred to in sub-section (1), where the arrangement or contract is for a term of less than one month.

(3) The Scheme may make provision for the supply by a contractor to a principal of any information necessary to enable the purposes of this section to be carried out including provision for punishment by fine not exceeding one thousand rupees for the contravention of any requirement of the Scheme'."

I have already explained the object of this amendment when I was speaking on my first amendment. I move.

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

"That for clause 12 of the Bill the following clause be substituted:

'12. (1) Where a person (in this section referred to as the principal) uses, in the course of or for the purposes of his trade or business, the services of workmen temporarily lent or let on hire to him by arrangement with another person with whom the workmen have entered into contracts of service or apprenticeship, or in the course of or for the purposes of his trade or business, contracts with any other person for the execution by or under such other person of the whole or any part of any work which is ordinarily part of the trade or business of the principal (either such other person being in this section referred to as the contractor) the principal shall obtain from the contractor the name of the agent of the Central Government acting under section 8 with whom he intends to insure, and shall, report to that agent the existence of his arrangement or contract with the contractor.

(2) Notwithstanding anything elsewhere contained in this Act, in any such case as is referred to in sub-section (1), it shall not be necessary for the contractor to insure against the liabilities imposed on him by this Act, in respect of workmen employed by him whose services, are lent or let on hire on such an arrangement or used in the execution of work on such a contract as is referred to in sub-section (1), where the arrangement or contract is for a term of less than one month.

(3) The Scheme may make provision for the supply by a contractor to a principal of any information necessary to enable the purposes of this section to be carried out including provision for punishment by fine not exceeding one thousand rupees for the contravention of any requirement of the Scheme'."

The motion was adopted.

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

"That clause 3 stand part of the Bill."

Mr. D. S. Joshi: Sir, I move:

"That to sub-clause (1) of clause 3 of the Bill, the following proviso be added:

'Provided that where an employer has taken out a policy of insurance as required by sub-section (1) of section 9 and has made all payments by way of premium thereon which are subsequently due from him in accordance with the provisions of the Scheme, or where by the provisions of the sub-section (2) of section 12 the employer is not required to insure, the Central Government shall assume and discharge on behalf of the employer the employer's liability to pay compensation under this sub-section'."

If this amendment is accepted, the procedure for the payment of compensation will be very much simplified. Where an employer is required to insure and has satisfied his liabilities and also where there is no obligation on the employer to insure, the payment of compensation to workmen shall necessarily be paid out of the Fund. In this manner, no workman will have to wait for compensation to be paid by the employer direct, but it will be paid out of the Fund. Sir, I move.

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

"That to sub-clause (1) of clause 3 of the Bill, the following proviso be added:

'Provided that where an employer has taken out a policy of insurance as required by sub-section (1) of section 9 and has made all payments by way of premium thereon which are subsequently due from him in accordance with the provisions of the Scheme, or where by the provisions of the sub-section (2) of section 12 the employer is not required to insure, the Central Government shall assume and discharge on behalf of the employer the employer's liability to pay compensation under this sub-section'."

The motion was adopted.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That to clause 3 of the Bill the following new sub-clause be added:

'(3) This section shall be binding on the Crown.'

I have already explained that we are now seeking to make the Crown statutorily liable for the provisions of this Bill. With these remarks, I move.

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

"That to clause 3 of the Bill the following new sub-clause be added:

'(3) This section shall be binding on the Crown.'

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim): Clause 13:

Mr. Abdur Rasheed Choudhury: Sir, I move:

"That in sub-clause (1) of clause 13 of the Bill, part (b) be omitted."

Sir, this is a portion of the Bill on which I feel particularly strongly. The employers do not grudge the payment of premia, but they cannot put up with this humiliation that is sought to be imposed upon them by this provision. In this country "search" of a person or property is considered a very humiliating affair, and people think it a matter of great shame if circumstances compel any search to be made. Sir, as the saying goes:

"Marne ke gahal bhut banne ki zaroorat kya."

"Why do you make a provision with this, till there is a case justifying this?"

Sir, I submit a provision like this does not find a place in any other taxation measure. Even in the Income-tax law, this provision is purposely omitted. I find that in the original Bill, as it was introduced into the Assembly, this provision did not find a place. But somehow, in the Select Committee there was disagreement, and one Member, in his Minute of Dissent, has proposed that the entire clause 13 be omitted. I wish other Honourable Members of the Select Committee also had agreed to this and thus avoided a discussion in the House. But even now, my Honourable friend Dr. Ambedkar can see to the resentment which is going to be felt in the country on account of this provision. As I have said, we are willing to pay any premia, but we are not willing to be humiliated. Sir, this reminds me of the story of the potter. The story goes that a potter carried in his arms a number of pots and while he was proceeding to the market, he was thinking in his own mind how his life's ambition would be fulfilled. He thought within himself that a large amount of money will be realised by the sale of the pottery, that he would engage a number of servants and that he would enjoy life on account of the riches and that he would make all his servants obey his commands and that if any servant disobeyed him he would kick him with his legs. While he was thus engaged in this train of thought, he unconsciously raised his legs as if he was kicking his servant with the result that the pots fell from his arms and broke. My Honourable friend is imitating a thing like that. He is trying to raise a fund, but in doing so, he is providing for searches. I am afraid, Sir, that his ambition to get funds might be frustrated as was the case with the potter. So, Sir, for more than one reason, and for the sake of decency, till the necessity arises, why do you put in this nauseating clause. It is not befitting the people who contribute to the fund. The power given in this sub-clause is very wide. The Central Government might authorise any officer to enter any premises or upon any property under the control of an employer. It is very objectionable that anybody should enter a bungalow where ladies might reside. The more I read this provision, the more I am convinced that it is a great mistake to put in this provision. I do not think that a cultured man like my Honourable friend would allow such a provision to be put in. As he has met me on the two previous amendments half way, I wish he would meet me full way and agree to omit this provision. If he feels the necessity for such a provision, he might come at any time with an amending Bill. In the case of income-tax and super-tax, such an occasion has not arisen. Why should he think that in the present case such a provision is necessary. I hope he would agree to omit this provision.

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

"That in sub-clause (1) of clause 13 of the Bill, part (b) be omitted."

The Honourable Dr. B. R. Ambedkar: Sir, I may not have sufficient amount of culture, but I claim average amount of intelligence. Sir, applying such amount of intelligence as I possess to this clause, I think my Honourable friend has entirely misunderstood the purpose of it and the necessity for it. The purpose of the clause is really not to levy distress or to take a warrant, but the purpose of the clause is to obtain information and search for information. Now, Sir, my Honourable friend has not understood why accurate information in this case is absolutely important. I would like to tell him that information is important not only from the point of view of the Government, but information is important from the point of view of employers themselves. Sir, it is perfectly possible for a fraudulent employer, for instance, to submit faulty information, wrong information, information understating his wages bill, information understating the number of employees who are working under him. The premia shall have to be based upon information that has been submitted. It would be perfectly possible for good employers being penalised and they have to pay more for the fault of fraudulent employers who by passing false information might try to escape liability of the law imposed upon them. Therefore, this clause is absolutely necessary, necessary in the interests of the employers themselves. I cannot understand how there can be any objection merely because the law provides that when there has been a case where it is suspected or where Government have information that accurate information has not been supplied that Government should have the power to get accurate information which, as I submit, is the very rock on which this system is founded. Sir, I oppose the amendment.

Mr. Hoosainbhoy A. Lalljee: Sir, I am very sorry that the Government Benches have one plea and one principle to adopt in some matters and quite a different plea and quite a different principle in others. Sir, for years together we have been discussing about income-tax and I am sorry, my Honourable friends from Muslim League Party here have told us just now that some of us differ somewhat from other civilised world, that is to say we are a little more dishonest; still I maintain that even with regard to income-tax, a tax which one has to pay more or less compulsorily for the welfare of the whole State including the welfare of labour, if possible, whenever attempts have been made to bring in such a clause in income-tax law, yet up to now Government, very kindly, may I say, in deference to the wishes of the House, did not bring in what my Honourable friend the Member for Labour now wishes to introduce in this Bill. I really congratulate him for the new tactics that he has adopted very recently, that is to tell the general employers, "I am going to save you from your dishonest brother employers". He wants to tell me more than I know about my own people. He wants to be the grandfather for all the employers, he wants to be a trustee for some of us and tell us that it is in our interest that he does this. I am very sorry to notice that when once a gentleman comes to the Treasury Benches, he always thinks that it is his right to pose as protector of the whole universe. The universe comes always in his mind. He thinks the best thing in the universe is to manage the whole show himself and that by dividing the peoples so that peoples will then come to him, and he can then decide as he likes the whole show. That will not do. Peoples have now long realised all this and that when in the important income-tax law they will not tolerate any such clause to come in, are they going to allow under any pretext in this Bill any such clause so as to enable anybody to visit the premises or enter any property of employers to search for information. My Honourable friend Mr. Yousuf Haroon said that the income-tax authority has got a big staff which the Honourable the Labour Member has not, and therefore we should agree to anybody and everybody to enter not only the factories but also the premises including the manager's bungalow. Also,—really all this shocks the sentiment of Indians,—any ordinary inspector be allowed to go into the Manager's house, whether the manager be a Hindu or Muslim or anybody else. We are collecting crores of rupees of income-tax without any such clause

[Mr. Hoosainbhoy A. Lalljee.]

or any difficulty; here is a voluntary contribution of 15 lakhs made by employers and any one and every one is empowered to enter their houses. If I did not know my Honourable friend the Labour Member so well I would say that there is something else besides this as it appears and this is done with a motive. I cannot think that of my Honourable friend. But I warn my friends here that if this power is introduced here, tomorrow it will be introduced into the Income-tax Act under which you collect crores of rupees, although we have resisted it for so many years; you will have it also in the Penal Code and magisterial search warrants will go. Even in the Defence of India Act there are some restrictions upon entries of this kind into private houses, and remember if you can have it in this Bill how can you prevent Government from having it in all other Acts? They want 40 crores of rupees from income-tax they will have this power there; also in criminal cases often they want all kinds of evidence, and remember some of the officers then will have it from the ladies in their houses, what they cannot make up from their husbands; with what face can we object after this? If such a thing is done now will employers come to the help of Labour or Government if in this way they want to enter our houses and thus create precedents, then will it not go against us in income-tax and criminal law? Government must convince us of their *bona-fides*. Leave aside the millowners who say they are not afraid as they are honest,—I know what their honesty is and how they behave. May I ask them have the income-tax officers ever troubled to come to their office? Have my European friends been troubled like that by the income-tax people? They will, therefore, of course, never see any harm in it, but what the true position is that there are thousands of people every day attending in the income-tax offices but the Europeans have never had to attend it. And we are spending four crores of rupees on officers for collecting this income-tax in this way from our people still some of my Honourable friends want that I should agree and be party to this principle of entry and search. Sir, it is not divulging any secret but I can honestly say that there was a strong feeling against it and even the Law Member and others on the Treasury Benches did not like this provision. Still it has come there; and I will say that if next time when the Finance Member comes up with a similar provision we will not bless the Honourable Member for Labour but say something else.

Mr. Lalchand Navalrai: Sir, I rise to speak on this clause not only from the point of view of this Bill but from the general point of view also, so that similar provisions may not be made in other Acts to harass the public. I at first did not understand the need for this provision, but I gather now that it is to get information from the employer or his agent in possession of the premises. If wrong or incorrect information has been given what is the reasonable and correct procedure for Government to adopt? The onus is upon Government to prove that it is wrong, and not on the person who has supplied the information, to prove that it is correct. And then punishment has been provided for giving wrong information; that will induce the employers to give correct information. The proper method is surely not to seek the evidence from the person's own premises. If in every case where Government think wrong information has been given Government were to go and search the premises it will be very hard and they should not go as far as that.

The Honourable Dr. B. R. Ambedkar: Sir, if my Honourable friend will give way for a minute, I am prepared to accept the amendment. I am advised that sub-clause (a) is quite sufficient for our purpose.

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

"That in sub-clause (1) of clause 13 of the Bill, part (b) be omitted."

Sir George Spence: Sir, I submit that the motion should be put like this:

"That in sub-clause (1) of clause 13 of the Bill, the brackets and letter '(a)', the word 'and' at the end of part (a) and (b) be omitted."

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

"That in sub-clause (1) of clause 13 of the Bill, the brackets and letter '(a)', the word 'and' at the end of part (a) and (b) be omitted."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): Does the Honourable Member wish to move the other amendment?

Mr. Abdur Rasheed Choudhury: No, Sir. I don't wish to move. Clause 13, as amended, was added to the Bill.

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

The Assembly re-assembled after Lunch at Three of the Clock, Sir Henry Richardson (one of the Panel of Chairmen) in the Chair.

Mr. Chairman (Sir Henry Richardson): The question is:

"That clause 14 stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

Mr. D. S. Joshi: Sir, I move:

"That after clause 14 of the Bill, the following new clause be inserted and the remaining clauses be renumbered accordingly and that all references to the numbering of the clauses be corrected as required by such renumbering:

15. *Payment of compensation where employer has failed to insure.*—Where an employer has failed to take out a policy of insurance as required by sub-section (1) of section 9, or having taken out a policy of insurance as required by that sub-section has failed to make the payments by way of premium thereon which are subsequently due from him in accordance with the provisions of the Scheme, payment of any compensation for the payment of which he is liable under this Act, may be made out of the Fund, and the sum so paid together with a penalty of such amount not exceeding the sum so paid as may be determined by an officer authorised in this behalf by the Central Government shall be recoverable from the employer as an arrear of land revenue for payment into the Fund."

The object of the amendment is clear. As at present worded, the Bill does not provide for payment of compensation out of the fund where an employer has failed to insure. By this amendment it will be possible to make payment directly out of the fund even where an employer has failed to ensure himself. Sir, I move.

Mr. Chairman (Sir Henry Richardson): The question is:

"That after clause 14 of the Bill, the following new clause be inserted and the remaining clauses be renumbered accordingly and that all references to the numbering of the clauses be corrected as required by such renumbering:

15. *Payment of compensation where employer has failed to insure.*—Where an employer has failed to take out a policy of insurance as required by sub-section (1) of section 9, or having taken out a policy of insurance as required by that sub-section has failed to make the payments by way of premium thereon which are subsequently due from him in accordance with the provisions of the Scheme, payment of any compensation for the payment of which he is liable under this Act, may be made out of the Fund, and the sum so paid together with a penalty of such amount not exceeding the sum so paid as may be determined by an officer authorised in this behalf by the Central Government shall be recoverable from the employer as an arrear of land revenue for payment into the Fund."

The motion was adopted.

Clauses 15 to 20 were added to the Bill.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Chairman (Sir Henry Richardson): Motion moved:

"That the Bill, as amended, be passed."

Mr. H. A. Sathar H. Essak Sait: Sir, I am very happy that the Bill is going to be passed and enacted into law. I am glad that the House has amended this Bill and made it into a better enactment than even when it came out of the Select Committee. In this connection I would in passing refer to one amendment which was carried immediately before lunch, with regard to dropping sub-clause (b) of clause 13. In the consideration stage I had spoken in favour of that clause and I was taken to task by some of my friends, including the Leader of the Independents, who was opposing that clause, and therefore I owe it to myself and to the House to explain what has actually taken place in the House. I am not now going into the clauses. Sub-clause (b) has been dropped but that does not mean that the Government has given up anything, any of the powers that they wanted. Really Government have agreed to drop that sub-clause because all the power they wanted under that sub-clause

[Mr. H. A. Sathar H. Essak Sait.]

was already there in sub-clause (a). Really therefore the popular side has lost something by the dropping of this sub-clause (b), and I am sorry the Leader of the Independents is not here so that he could have seen what actually has been the result of the amendment that he pressed. We were very particular in the Select Committee that due notice was given. It is mentioned here—and I am not disclosing any secret of confidence—this was put in by the Select Committee, that the premises will be entered only after having given the employer 48 hours notice of the intention to do so. This 48 hours notice was there. My friend, Mr. Abdur Rasheed Choudhury, said that under this clause people could get into the houses suddenly and they could go into the zenanas and the ladies quarters and this and that. That is impossible; we have seen to it that it was not allowed, because we said there should be 48 hours notice. Now that notice has gone. I do not say that the Government is going to empower their officers to get into zenanas and all that; but still I say that the safeguard that we had here has gone. That has been the result of the interference of my honourable friends of the Independent Party. I am very glad, however, that the Bill is becoming law and I hope that whatever we have lost because of the very wise interference of my friend will at least be restored by the Government. Sir, I support the Bill.

Mr. Chairman (Sir Henry Richardson): The question is:

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

The motion was adopted.

THE DELHI UNIVERSITY (AMENDMENT) BILL—*contd.*

Mr. Chairman (Sir Henry Richardson): The House will now resume consideration of the Delhi University Bill, clause by clause. I shall take up the Consolidated List of undisposed of amendments, and the numbers I shall refer to will be those on that list. No. 1. Mr. Tyson.

Mr. J. D. Tyson (Secretary, Department of Education, Health and Lands): Mr. Chairman, I move:

“That in clause 16 of the Bill, in clause (4) of Statute 2 in the proposed Schedule for the word ‘eight’ the word ‘twelve’ be substituted.”

I feel that it is due to the House that in introducing this amendment I should explain in a few words what has influenced Government at this stage to seek to amend its own Bill by means of this and of another amendment that stands in my name. I have already indicated in the discussion on one of the amendments moved with regard to part (c) of clause 5 of the Bill, our attitude on this side of the House to a number of amendments which sought and which seek to introduce the principle of communal representation into the Act and Statutes. But I have also, I hope, made it clear in the discussion on a later amendment that Government are not complacent, and I do not think the House could afford to be complacent, about the share which some of the minority communities are able under the present system to take in the administration and the activities of the University.

There are various methods by which such a state of things can be remedied. My Honourable friends opposite, and my Honourable friend, Rao Bahadur N. Siva Raj, place their faith in one method, the method of reserving a specific number of seats or proportion of seats in each body of the University. We have been examining other lines of approach. One was the introduction of the system of proportional representation, with the single transferable vote, into the elections within the University. I will not discuss this in any detail now as, owing to a provision already existing in the parent Act, it is impossible for this House to amend the Bill to give effect to such a proposal at this stage. It is a reform that the University itself can introduce by amending its own ordinances, and I will only say this, that if such a measure were promoted by those who can promote such things in the University, Government would be disposed to lend the weight of its influence in favour of a measure which has much to commend it from the point of view of ensuring to each community a weight in

the University commensurate with its numbers. It is not, however, practical politics at the present moment so far as the Bill before us is concerned. The other way in which we have thought it desirable to amend the Statutes with a view to rectifying, to some extent at all events, the present unsatisfactory representation of different elements is by increasing the number of persons who come to the Court through the intervention of the Chancellor, either direct or indirect. The present amendment seeks to raise to 12 from 8 the number of persons who can be elected to the University Court by associations or other bodies approved in this behalf by the Chancellor on the recommendation of the Court. The House may be interested to know how those eight seats are at present held. The Delhi Municipality sends two members by election, the Delhi Bar Association sends one, the Jamia Millia College sends one, the Delhi Medical Association sends one, the Delhi Hindustani Mercantile Association sends one, and the Board of Secondary Education sends two. These members come to the Court by election in the bodies which they will represent. There are, however, bodies and associations in Delhi—some of them have been mentioned in the course of this debate—which are cultural bodies, bodies interested in education, which could be added, we feel, to this list, to the advantage of the University—bodies which represent a particular form of culture, a particular aspect of culture or education and could in all probability be relied on to send to the Court representatives of that particular line of culture, representatives, therefore, of the particular community specially interested in that form of culture. The tendency of adding, as this amendment proposes to do, to the number of persons elected to the Court would be to improve the representation of minorities on the Court. As regards direct nomination I shall reserve my remarks for the appropriate amendment. As regards the present amendment I will only add at this stage that out of eight at present elected by bodies approved by the Chancellor, three, according to the latest calendar of the University, come from one minority community, and this is obviously a source from which one can hope to see more minority community representatives being elected if the maximum is raised—representatives of a kind who should prove an asset to the Court of the University. Sir, I move.

Mr. Chairman (Sir Henry Richardson): Amendment moved:

"That in clause 16 of the Bill, in clause (4) of Statute 2 in the proposed Schedule for the word 'eight' the word 'twelve' be substituted."

Nawabzada Muhammad Liaquat Ali Khan (Rohilkund and Kumaon Divisions: Muhammadan Rural): The amendment that has been moved by my Honourable friend, the Education Secretary, is a recognition of the fact that Mussalmans and others who are not fortunate enough to be well represented in the various constituencies of the University have a legitimate grievance, and I am glad that at last some sense of justice has dawned on this Government. I should have expected that when the whole question of amending the Delhi University Act was on the anvil the Government themselves would have given due consideration to this matter. All those who are closely associated with the University were not ignorant of the paucity of Muslim representation in the various bodies of the University. The object of this amendment appears to be to provide a method by which the Mussalmans and other minorities might be represented on the Court. I have purposely used the word "might" because with regard to this amendment there will be two hurdles that will have to be crossed. One is that the Court must recommend to the Chancellor that such and such association should be given representation. Constituted as the Court is and looking at its past history, I am afraid I cannot be so optimistic as to feel that the legitimate rights of the Mussalmans and other minorities will not suffer in the future. Then, Sir, the other hurdle which has to be crossed is that the Chancellor must accept the recommendation of the Court. These two hurdles are such that I am afraid we on this side of the House cannot be satisfied that this amendment which is proposed to be made will give adequate representation to the Mussalmans and other minorities who have had no representation practically on the Court. My friend has objected to the acceptance of

[Nawabzada Muhammad Liaquat Ali Khan.]
 the principle of communal representation. I am really at a loss, to understand why this objection is held to the bosom of the Government so tightly. Why? What is wrong with communal representation? Everything in this country is communal. This Legislature is communal. Every institution is communal, and the object of it is that various communities who form the population of India should have adequate share in the various administrative bodies. As a matter of fact, let me here tell you that the proposition which we had put before this House and which we intend to do in the form of various amendments later on is not so communal as is provided in the Dacca University Act. Here all that we wanted was that certain places should be reserved for the Mussalmans in the Court. I am referring to the Court only because as regards the other bodies I shall have to say something about them when we come to those clauses. It is provided in the Dacca University Act that the Court is to be constituted in the following manner: There are to be certain officers of the University. Then, in addition to the officers mentioned in sub-section (1) of section 16, the following persons shall be *ex-officio* members of the Court. I shall not waste the time of the House by reading the various *ex-officio* members. Then, later on, it says: The number of graduates (that is clause 2) to be elected as Members of the Court by the registered graduates from among their own body shall be 30 of whom 15 shall be Muhammadan graduates elected by the Muhammadan registered graduates and 15 shall be non-Muhammadan graduates elected by the non-Muhammadan registered graduates. Now, this is communalism *par excellence*, if you like, and it is in the Act of a legislature, referring to a university which is called the temple of learning, whereas our amendments were not really so communal as what is actually provided in an Act of a University. All that we were asking for was that certain places should be reserved for the Mussalmans. It is so not only in the case of registered graduates. Then there is another provision here: The number of persons to be appointed by the Chancellor under clause (x) of sub-section (1) of section 16 shall be 40 and how is this to be provided—"Provided that the Chancellor shall in making such appointments secure that as far as possible 50 per cent. of the non-European members of the Court shall be Muhammadans". My Honourable friend has come forward with a milk and water amendment and states that four more seats have been given to certain associations who must be recommended by the Court to the Chancellor and the Chancellor is free to appoint anybody or recognise any association. How does he provide under this amendment representation of the Muslim and other minority communities? If I may say so, Mr. Chairman, I think it is really an eyewash. If you are satisfied that the Mussalmans and other minorities have a legitimate grievance about their representation on the Court of the Delhi University, then why don't you come out boldly and make certain proposals which would give them real, effective and certain share in the various bodies of the University. Then further on, there is a reference to the Executive Council here. I shall deal with that when we come to the Executive Council. This amendment which has been proposed by my Honourable friend cannot satisfy those communities who have had no share so far in the administration of the Delhi University. His amendment, I must say, is a feeble attempt at doing justice to a cause which demands a bolder step than this kind of amendment. I only wanted to place these few facts before this Honourable House to show that really what we want, on this side of the House, is not this kind of representation which is not certain and which can never give an adequate voice to the Mussalmans in the administration of the University of Delhi. I do not desire to oppose this amendment but I must make it clear that we cannot be satisfied with this type of provision in the statute to give representation to the Mussalmans and other minority communities.

Maulana Zafar Ali Khan (East Central Punjab: Muhammadan): I associate myself with the views so well expressed by the Deputy Leader of the Muslim League Party, Nawabzada Liaquat Ali Khan. What the red rag is to the bull,

the terms Islam and Mussalmans are to the Government of India, whenever a question crops up of effective, adequate and proportional representation being provided for them, in any walk of life. Mr. Tyson knows history well and he ought to know that the Muslims, whom he disregards and looks upon with contempt, were for 600 years the teachers of Europe. Go to Spain, go to Sicily and the writing on the wall there will confront him. Aristotle was forgotten. It was Islam and the Mussalmans who introduced Aristotle to Europe. Wherever you go, from the Atlantic right up to the walls of China, you will see Muslim seminaries, Muslim schools of learning and Muslim Universities. In fact, the Mussalmans were the torch bearers of light and learning in that temple about which you talk so much. Sir, it is an irony of history that in India, where the Mussalmans have ruled for so many years, every hamlet, every town was a repository of knowledge and every masjid, every maktab and every vidyalaya was aglow with the light of learning. But when the Britishers came with their Western type of education and learning and civilisation, the darkness of ignorance and illiteracy fell upon the country. So, why talk of this Delhi University as a model university, as an all-India university in which communalism will have no place. Communalism will have a place. We are up against you and others also whose cry is against Islam and the Mussalmans. We have told you so many times and we again tell you that the Mussalmans of India will compel you to acknowledge their position as such in the constitution of the country. We will have a place in the statute book. We will have a place not as Rajputs, not as Sheiks, not as Mullahs but as Mussalmans and this you will have to do one of these days. With these words, I support Nawabzada Liaquat Ali Khan.

Dr. P. N. Banerjee (Calcutta Suburbs: Non-Muhammadan Urban): Sir, the statute which my Honourable friend Mr. Tyson's amendment seeks to amend runs thus :

"The number of persons to be elected as members of the Court by associations or other bodies approved in this behalf by the Chancellor shall not exceed eight."

Now, in place of eight, my Honourable friend wishes to have the word twelve. In other words, what he wants to do is to increase the intervention of the Chancellor. Now, I personally have been always opposed to giving the Government greater power over this University and from that point of view I am unable to accept this amendment. If twelve associations had been mentioned in the statute, perhaps I would have been able to support most of them, if not all of them. But to give the Chancellor or the Member in charge of the Department of Education or the Secretary in charge of the Education Department greater power over the University is what I am unable to accept. My Honourable friend referred to another question, namely, the question of proportional representation. We in this House are familiar with the use of this system of proportional representation by the single transferable vote, and if this system had been sought to be introduced, I, for one, would have gladly supported the Government. But that is not before us at the present moment. All that is before us is that the Chancellor will approve certain associations, who will send twelve representatives to the court instead of eight. Now, if the names of these associations had been placed before us, we would have examined their credentials. We would have discussed the question on its merits or demerits and would have come to the proper conclusions; but the amendment in its present form is unacceptable to me. I am, therefore, compelled to oppose this amendment.

Rac Bahadur N. Siva Raj (Nominated Non-Official): Mr. Chairman, I am in agreement with the purpose of this amendment which has been moved by Mr. Tyson. According to me, I do not see in this amendment anything more than that it seeks to accommodate certain interests which it would have been difficult otherwise to represent on the Court, so that I am tempted to call it almost an accommodating amendment. Mr. Tyson in his speech also indicated as to what exactly would be done by the Chancellor in case

[Rao Bahadur N. Siva Raj.]

this amendment is accepted. He feels and I have no doubt and I also feel, that such interests as hitherto have suffered for lack of representation through these associations will find representation hereafter if the number is increased from eight to twelve. My reason for not doubting the authority which seeks to secure the representation of different interests on the court is strengthened by the fact that the same Chancellor in another capacity, namely, as the Viceroy and Governor General of India, has secured the representation, at any rate, of one minority, namely, the Musalmans, to such a degree that I might say that he has secured for them a political parity with the majority community, the Hindus, though incidentally I must point out that we, the members of the Scheduled Castes, have suffered by reason of the fact that sufficient recognition was not given to us in such representation having regard to our numbers and also to our importance both in the body-politic and in the economic structure of the country. With these few words I support the amendment.

Mr. Ananga Mohan Dam (Surma Valley *cum* Shillong: Non-Muhamadan): Mr. Chairman, I rise to oppose the amendment moved by my Honourable friend Mr. Tyson because the Government is hereby trying to introduce the vicious principle of communalism in the distribution of seats. He seeks to give more representation to the Muslim community. (*An Honourable Member*: "How?") If the number eight is increased to twelve, the number of Musalmans will also be increased. Whenever the Government accedes to the demands of the Muslim Party, that Party comes with a greater demand. What I want to warn the Government about is that they are introducing a vicious principle which will retard the development of the minds of the students of the University. I am of opinion that Government should not introduce communalism though they themselves seem to be sure of the fact that the principle of communalism is not good for educational institutions. With these few words I oppose the amendment.

Mr. Lalchand Navalrai (Sind: Non-Muhammadian Rural): Sir, the amendment seeks to increase the number of the members to be approved by the Chancellor on the Court. So far as the powers of the Court are concerned, if the intention was to increase those powers I would agree to any power being given to the Court. But when it is hedged in with another obstruction, namely, to leave it ultimately to the Chancellor, I cannot lend my support to it. Sir, I have no grouse and I have no objection in any way to more representation being given to my brethren, the Muhammadans. But what I want to speak about mostly is the attitude of the Government. The attitude of the Government has simply surprised me. I do not know what has happened overnight that the Government have changed their attitude altogether. We know that from the very beginning they obstinately asserted that the communal representation should not be brought into the educational sphere. And when they were asked not to abide by this principle by so many speakers on this side who gave substantial grounds for doing this, the Government held their own. What I am urging is only from the point of view of principle. Will the principle of communal representation be introduced in education? This is the only question I am asking. The other communities do not want communal representation. They despised the Communal Award. The other communities have been bringing to the notice of the Government from time to time that by dividing the communities, by making this Communal Award, by conceding communal representation the Government are harming themselves. No doubt for the present the Government are sitting tight in the seat of office, they are stable in the chairs which they are holding, but ultimately I warn them that they will fail. I therefore submit that the Government should have been consistent in the attitude which they originally took up from the very beginning. The Government should tell my Muslim friends, well, we are not going to give you communal representation, or if they want to give, then let the Government tell plainly

that communal representation will be given in educational institutions also. When you gave the Communal Award, what did the other communities do? They were helpless. No community asked you to give the Communal Award. You took upon yourself the task of giving this award. You gave this Communal Award, you conceded communal representation, and thereby you have created so much rift, so much disturbance in India. Even in war time, this Communal Award is brought in. What is the result. The Congress passed certain resolutions which are not palatable to you, they are also harmful to you. Why have they done so? It is because of your attitude with respect to this Communal Award. I will not say anything more about this Communal Award.

I want to know from the Honourable Member in charge of this Bill, why he has brought forward this amendment. Does he want to introduce communal proportion in the University also. Is it fair? Is it just, that the Government should at this late stage give up all their previous principles and agree to communal representation in educational institutions also? Are the Government doing this in order to placate one party? If so, then they should plainly say so and I will not mind it. By all means let the Muslims be placated. I can see why the Government are anxious to placate the Muslims at present. The Government see a formidable list of amendments, numbering nearly 70. Is it out of fear for these amendments that the Government want to placate the Muslims? Do the Government think that the Muslims will not move these amendments? They say to your very face that they are not satisfied. They tell you plainly and truthfully that they are not satisfied with half way measures. They do not agree to this. What will you do? Perhaps overnight, you will change your views and accept all their amendments and give them communal representation. Is that right on the part of the Government which says that it is just and doing things equitably? If you feel that is their legitimate due, then there is an end of all fair play and justice. No one can then object. If you want to do it, do it openly. Why come through the backdoor. You accept a little here and then say, we will give you more tomorrow, the day after we will give you still more, and next time, you may say we will give you complete communal representation. This is not right. This is not graceful. This should not be the attitude of the Government. By conceding this principle of increasing the numbers, you are adopting communal representation. It comes to that. There is no use of saying, you are giving minority representation. In other words it means that you are conceding the demands of the Muslims. What is the fun of saying by the lips, 'minority representation'. My Honourable friends on that side also would like to have a loaf, one more loaf. Are you going to placate them also. Then there are the Sikhs. I do not find my Honourable friend Sardar Sant Singh. If he had been here, he would also have joined in this scramble. If you want to be just, do not be carried away by these demands, do not be cowed down by any threats or by any trouble that you may apprehend. I therefore beseech the Government not to have this amendment carried, because we are not agreeable to this. The Muslims also are not satisfied with it. They look a gift horse in the mouth. They demand full communal representation and I suppose the Government will yield to them. I may tell the Government plainly that by introducing this amendment they are not doing justice. If the Government want to give communal representation, then let them say plainly. If they do not want to give communal representation, then let the Muslim be told plainly and the amendment withdrawn.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, I am glad that my Honourable friend Mr. Lalchand Navalrai has made the speech he did. He is surprised at the fact that overnight wisdom had dawned on Government and they came out the next morning to do justice. Does my Honourable friend contend that in this world if it dawns on any one that justice should be done, it should not be done. Is

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that his theory? Can that be the theory of any sane person in the world? If justice dawns on anybody, be he Sikh, Muslim or Hindu or a Christian, then he should not come before the House and speak out the truth and say that he will do justice to the man who asks for it? Is that your theory?

Mr. Lalchand Navalrai: The Government are not admitting that. I want them to admit the mistake.

Mr. Muhammad Azhar Ali: It is not for me to say whether they admit the mistake or whether they do not admit the mistake. We all know what the Government of India is. Today if we come and express vehemently, strongly, and rightly that in justice and fairness these are our rights, these are the rights of the third party, then is it wrong on the part of the Government to concede those rights? I do not stand here to support the Government or say that the Government is right on this occasion or that occasion. What I object to is that my Honourable friend should say that if justice dawns one evening, then overnight that justice should not be done to those to whom it is due.

I am glad that justice has dawned today on the Government of India although I am not satisfied with that justice. It is only a question of changing their mind, and what they do today perhaps they may not do tomorrow. I submit it should not be done by a Government like this.

Coming to the amendments, there is not one word about communalism: the Government of India do not say that out of the number so many will be Muslims. The whole thing is left to the Chancellor. It is neither this way nor that way, and so I am not satisfied. What I say is that if Government are honest they should recognise the rights of every community, whether Muslims or Christians or any other minority. They ought to say boldly and plainly that so many seats will be given to Muslims but the amendment does not say anything like that. My friends who blame us for communalism should think twice before arguing in that way. There is nothing like communalism in it; we simply ask for our rights. We do not stop our Scheduled Caste friends from asking for their rights. What we say is that it is our right according to our proportion in the city of Delhi. We only ask for our portion.

Mr. Piare Lal Kureel (Nominated Non-Official): Sir, I had no idea of speaking on this University Amendment Bill today but I understood Mr. Tyson was moving a certain amendment and I should like to express my views—the views of my community. In spite of the best efforts of my community and many social reforming bodies the percentage of literacy among us is very low as compared with other communities. What are the reasons for that? That is the first question. The main reason seems to be that the people of the scheduled castes are not represented in educational institutions. They are not given a chance to express their views or to get the grievances of the scheduled castes students redressed. I shall first take up the village schools. What is the condition in these schools? The scheduled castes are still under the bloody clutches of the caste Hindus; their time, their money, their freedom,—everything is in the hands of these people. The spirit of Manu's Code is not dead, and in villages the commands of Manu still regulate the daily life of the people; and as such they are entirely at the mercy of these hydra-headed monsters of superiority and high birth. Therefore all village schools are controlled by the caste Hindus. The scheduled castes have no hand in the management of these schools; how can they have their grievances redressed? The representation of the scheduled castes even on the teaching staff is notoriously inadequate, I may say that it is quite negligible. Let me turn to the city schools and colleges. There the scheduled castes are not represented in the managing committees. The result is that they have to face innumerable difficulties in getting admissions, stipends, scholarships and many other things. I was not a Member of this House before, otherwise I could have brought hundreds of applications which I as the President of the Scheduled

Castes Students Federation received, containing, the grievances of our students. There are Hindus to support their own candidates. There are Musiums to support their own candidates.

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

There are Hindus and Muslims to speak for their own candidates but who is to speak for this unfortunate community? Is God coming down to speak for us? It is for the Government to see that the grievances of scheduled caste candidates are redressed; and in this respect my community has got a serious grievance against this Government also because it has failed to safeguard the legitimate rights of our community. I do not say that they have not co-operated in the uplift of the scheduled castes but they have not taken any deliberate steps to ameliorate their condition. I have very serious grievances against the Government. My Hindu friends say we should not be led by communalism. I understand that as well as any Member of this House. But there is no escape from it; the Hindus themselves are responsible for all this communalism that is prevailing in the country, and they must face it boldly. They say we should depend on their sincerity and honesty. We have been relying on their sincerity and honesty for centuries together and we have seen the result; we have been reduced to the position of animals and lifeless objects. Today what is our position? I shall take the case of the Lucknow University and show you how our people are treated there. In 1939 one Mr. Nand Lal, B.Sc. applied for admission into the pre-medical test in Lucknow for admission to the Medical College. Not to speak of admitting him, he was not even allowed to sit at this pre-medical test. The ground was that he had passed his B.Sc. from the Punjab University. How could he help that when his father was a Government servant in the Punjab and he was compelled to live there and have his education in the Punjab? These are the difficulties which the scheduled castes have to face, and how can we believe in the honesty and sincerity of the caste Hindus who dominate in these Councils? Again in 1940,—I shall ask this House to note these facts,—this poor fellow applied for appearing in this pre-medical test. After much hard labour he was allowed to appear, but the minimum marks required for admission into the Medical College are 40 per cent. but this poor fellow secured only 37 per cent. and therefore he was not admitted. In the same year Mr. Onkar Lal, another scheduled caste student met the same fate. Sir, the scheduled castes have taken education very late and it will be long before they are in a position to stand the test of open and free competition. It therefore becomes all the more necessary that their case should receive special consideration. We cannot believe caste Hindus. I will give another instance. This year another student named Narinjan Lal applied for admission into the Medical College and he secured 37 per cent. marks when the minimum required is 40 per cent. He also has not been allowed. I challenge the caste Hindus to prove that they are sincere and honest. And if we bring our cases before them they say, Oh, we must not be led by communalism. Then who is to hear our grievances? We must have our own representatives. My Honourable friend Mr. Tyson has brought this amendment; I am glad he has not mentioned anything about the Muslims. At least he has left some scope for the members of the scheduled castes also to get in as I have said before, the percentage of literacy among the scheduled castes is of course low. There may be other reasons but that is the main reason for this low percentage of literacy. If there are a hundred students seeking admission only two or three succeed in getting it. There should at least be some places given to them and some impetus given, but they have been denied any opportunity to raise themselves. Sir, this is the actual state of affairs. The Scheduled Classes

4 P.M. suffer more through lack of opportunities than through lack of capacity for good. If equal opportunities are extended to them, they can produce men of ability and in this respect they cannot lag behind others. If they are allowed and given equal opportunities to get their children

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educated, there will be an enormous reserve of unexploited mental energy and we will witness in India an intellectual revolution vaster in its sweep and magnitude than the renaissance of Europe.

The other day, my Honourable friend, Sardar Sant Singh, said that he does not want separate representation for his community. He is quite justified. His community is sufficiently educated, well placed in society, rich enough to face the open competition. Moreover it holds tremendous influence on the Government, being a martial community. Besides I see that they have got sufficient representation in every branch of administration. They have given proof that they can compete with other people. And the same is the case with Mr. Chatterji who half heartedly said that he did not want separate representation for Christians. I can advance the same arguments. His community is also sufficiently educated, holds influence in the Government and therefore he does not plead for separate representation. He is justified. But what about scheduled castes? They are educationally the most backward community in India. Economically, they belong to the poorest and the most awfully exploited sections of the Indian population. And socially, they are no better than brutes, animals, lifeless objects. And if you are not going to give them separate representation, I fear that there is no hope for the amelioration of their condition.

Sir, I would like to speak again if you, Mr. President, will allow me to do so, but with these words I very strongly support the amendment moved by Mr. Tyson.

Sir, if I may, I would, like just to say that in India if you leave the minority at the mercy of the majority, it would be unjustified. In truly democratic countries the majority must rule the minority, but that majority must be morally efficient to rule over the minority. What is the position in India? Caste is the greatest dominating factor in our social life. People are led by caste considerations. Efficiency has no meaning for them and in such a state of affairs, protection for minorities is the first step towards the freedom of the country.

With these words, I support the amendment.

Sir Syed Raza Ali (Cities of the United Provinces: Muhammadan Urban): Will the Honourable Member tell me if there is no Scheduled Caste representative on the staff of the Lucknow Medical College?

Mr. President (The Honourable Sir Abdur Rahim): Does the Honourable Member wish to speak on this amendment?

Sir Syed Raza Ali: I was just asking this question, because it will help us in our discussion of the question.

Mr. Piare Lall Kureel: I shall be only too glad to tell the House about the state of affairs in this College.

Mr. Govind V. Deshmukh (Nagpur Division: Non-Muhammadan): The amendment which has been the subject of such heated debate is one which, according to some, is the result of justice which has dawned overnight. I have seen cases of justice which have taken a long time. I have never heard of a case in which justice has dawned overnight, except the one which we are now witnessing. All I can say is that it is the result of an inspiration which has come overnight. The framers of this Bill have taken days and days together and they have had consultations covering all the pros and cons of the subject but they did not arrive at a particular conclusion such as the one which is now before this House. I can only say that it is the result of inspiration and not of justice, because the Party which is sought to be placated does not consider it justice according to its standards of justice.

There was a complaint from my Honourable friend over there that it is Manu who is putting them down. Today it is not Manu who holds the field but the Government is playing the role of Manu which enacts measures such as Hindu Intestate Succession Bill.

Now, Sir, coming to this amendment itself, I do not wish to get into the bye-lanes or blind alleys of communalism. It is not necessary for the purpose

of this amendment which, read as it is, does not really refer to any communalism. There is no word which has any reference to it; and why should people have gone out of their way to talk about communalism instead of speaking on the amendment on its merits, I cannot understand? Let me say one thing before I come to the amendment itself. I heard a lot of passionate debate but I have also seen a wonderful feat. There were two hurdles according to the Deputy Leader of the Muslim League Party, but they were such that he could not get over. He has jumped over the hurdles and he does not find any difficulty. He does not oppose the amendment. This amendment being a case of inspiration according to me, and not a case of justice, let me say what my objection to its acceptance is: The original clause runs thus:

"The number of persons to be elected as members of the Court by associations or other bodies approved in this behalf by the Chancellor shall not exceed eight."

This gives a great deal of discretion to the Chancellor. If we had been told the principles under which those bodies or associations could have been considered as approved, one would have that as a guide, but, as it is, who is going to get the representation? I am afraid, it is so ambiguous a clause that it should be strenuously opposed by everybody. If any community finds a support in this particular amendment it is under a delusion. Under the circumstances, when the amendment is not in any way specific they should not support it. It leaves everything to the discretion or arbitrary powers of the Chancellor, and therefore, I oppose this amendment.

Maulvi Muhammad Abdul Ghani (Tirhut Division: Muhammadan): Sir, I find that wherever there is any mention of the word 'Muslim' it upsets the minds of some Honourable Members. If my Honourable friend Mr. Dam had taken a little trouble to refer to clause 26, he would have found four cases of pure communalism. In that clause there are certain scholarships which are to be given not only to Hindus in general but to Hindu Khattris. Is that not communalism? And there is not only one case, but you will find that the first scholarship is for Hindu Khatri student, the second is for the same and the third is for Hindu lady and the fourth also to Hindu student. Who is responsible for introducing this sort of thing in the 'temple of learning'? My friends should have seen it and taken a lesson from it. For the time being I simply draw Mr. Dam's attention to it and I hope he will have got ample satisfaction by the speeches of my Honourable friends over there.

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

"That in clause 16 of the Bill, in clause (4) of Statute 2 in the proposed Schedule for the word 'eight' the word 'twelve' be substituted."

The motion was adopted.

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Sir, I move No. 4:

"That in clause 16 of the Bill, in clause (5) of Statute 2 in the proposed Schedule for the words 'two and four' the words 'four and eight' be substituted."

Sir, on a reference to the clause referred to in the amendment, the House will find that it reads:

"The number of persons to be elected by the elected Members of the Council of State and the Legislative Assembly from among their own numbers shall be two and four, respectively."

If my amendment is accepted it will result in the Council of State getting four representatives and the Legislative Assembly getting eight representatives, instead of two and four respectively, as contemplated in clause (5) now. I think there will be no danger of anything communal coming in if this amendment is accepted by the Government and agreed to by the rest of the House. This bugbear of the imagination of many people, communalism, is so very wonderful that it upsets the mental balance of many people when it is even remotely mentioned or suggested or hinted at. I was surprised to hear Mr. Dam talking of the last amendment of my Honourable friend Mr. Tyson as introducing communalism. As a matter of fact anybody who runs may see that instead of communalism it only seeks to introduce officialism. Mr. Dam need not have had such a heated talk about communalism and its vices and

[Syed Ghulam Bhik Nairang.]

defects and disadvantages and evil consequences over that little thing. Do we not see now that that amendment leaves everything in the hands of the Chancellor, that is to say, for all practical purposes the representatives who will get into the court, under the last amendment, will be hardly anything better than the so many nominated non-official Members on the Government Benches in this House? Do we not find everyday that in vital matters concerning their community, these non-official nominated Members vote against the interests of their own community, simply because they happen to be nominated by Government? In the same way the associations which will be recognised by the Chancellor as entitled to send representatives under that clause, clause 4, will produce credentials which will be examined according to official criteria and if those associations happen to be in the good books of the powers that be they will get approved by the Chancellor. Therefore the moving of that amendment was really a move in the direction of introducing more officialism, more patronage and more obsequious and submissive members to the court, and to represent the official point of view more effectively. Anyhow, let bygones be bygones; it is no use crying over spilt milk; that amendment has been carried. This amendment which I am moving seeks really to give the Council of State four representatives instead of two, and the Legislative Assembly eight instead of four; it seeks to increase the representation of these two Honourable Houses on the court of the Delhi University, and unless the Government can see some very great danger in importing into the court a larger number of elected members of these two Houses, I think the Government should agree to it. I hope the Members who will get into the Court from that door will be in every way qualified to help in the deliberations of the Court and to assist in the administration of the University. I need not dilate further on that point. I commend this amendment for the acceptance of the House. I move it.

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

"That in clause 16 of the Bill, in clause (5) of Statute 2 in the proposed Schedule for the words 'two and four' the words 'four and eight' be substituted."

Dr. P. N. Banerjee: Sir, I have much pleasure in supporting the amendment which has just been moved by my Honourable friend, Syed Ghulam Bhik Nairang. The plain meaning of this amendment is that the number of members to be elected by the Legislative Assembly will be doubled. At present we from this House send four representatives to the Court. My friend suggests that we should henceforth send eight representatives. That is a just and fair demand and it should be acceptable to the Government. This House consists of representatives of large constituencies, and as such this is a proper constituency for electing members of the Court of the Delhi University. There is also another reason why I support this amendment. The principle of proportional representation by the single transferable vote prevails in regard to all elections from this Assembly and the other House. This is a sound principle and this principle helps the election to other bodies of the minorities.

I am not opposed to the election of minorities although I am opposed to the principle of communal representation. If the minorities can get through this door, this open door of election, I would welcome this step. Besides, I find that a great deal of interest is being taken in educational affairs by the elected Members of this House, and if eight members are elected by this House and four members by the other House, I think there will be an even greater interest in education in future and the persons who will be elected from the Central Legislature will, I am sure, be a welcome addition to the Court of the Delhi University. There is no question of communal representation here but it is right and proper that this House should be represented on the Delhi University in larger numbers. A further ground on which I wish to support this amendment is this. This House makes large grants every year to the Delhi University. The other day Mr. Tyson pointed out that this House makes a grant of 65 per cent. of the total revenues of the University

and that is a very important reason why this House should be represented on the Court of the University better than before.

Mr. J. D. Tyson: I feel that this is essentially an amendment on which we should bow to the feeling of the House itself. I gather that the amendment finds favour, and if my impression is correct, I should be the last person to oppose it.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That in clause 16 of the Bill, in clause (5) of Statute 2 in the proposed Schedule for the words 'two and four' the words 'four and eight' be substituted."

The motion was adopted.

Syed Ghulam Bhik Nairang: Sir, I move . . .

Mr. J. D. Tyson: Before the Honourable Member moves this amendment, on a point of order, Sir, may I ask whether this amendment is in order? May I draw the attention of the Chair to section 18(1) of the Act. That section prescribes the persons and the categories of persons who go to make up the constitution of the Court, and Class III refers to various categories of persons, graduates of the University, persons elected by the teachers, etc. My objection to the amendment which is sought to be moved is that it proposes to add in a statute three new categories which are not catered for in the Act. If we were to accept the amendment to the statute we would be passing a statute which is repugnant to the Act.

Syed Ghulam Bhik Nairang: May I explain? In Section 18(1), Class III, No. (xiii), we have "persons elected by associations and other bodies approved in this behalf by the Chancellor on the recommendation of the Court". My amendment would apparently come under that with only one addition, that these bodies may have to be approved by the Chancellor.

Dr. P. N. Banerjea: That has already been accepted.

Nawabzada Muhammad Liaquat Ali Khan: We have only passed the amendment.

Syed Ghulam Bhik Nairang: Statute 4 originally contemplated the election of 8, or rather not more than 8 persons representing such associations, and now that number has been increased to 12, which does not in any way affect this amendment.

Mr. President (The Honourable Sir Abdur Rahim): If they are approved by the Chancellor, then it would be in order on the recommendation of the Court?

Syed Ghulam Bhik Nairang: Yes.

Mr. President (The Honourable Sir Abdur Rahim): Is not the Arabic College represented already?

Syed Ghulam Bhik Nairang: These bodies are not represented. All of them are bodies not represented. Only one according to the statement of Mr. Tyson, the Jamia Millia has got one representative, but we are seeking representation for them in larger numbers. I move:

"That in clause 15 of the Bill, after (5) of Statute 2 in the proposed Schedule the following be inserted and subsequent clauses be renumbered accordingly . . ."

Mr. J. D. Tyson Sir, has the amendment been ruled to be in order?

Mr. President (The Honourable Sir Abdur Rahim): What is the Honourable Member reading from?

Syed Ghulam Bhik Nairang: I am reading the amendment.

The Honourable Sir Sultan Ahmed (Leader of the House): We have already passed the amendment that 12 persons should be elected, and now we are asked to add persons elected by associations or other bodies approved in this behalf by the Chancellor on the recommendation of the Court. Under this amendment there are 10, 5 and 5, about 20 people. How shall we fit it in?

Mr. President (The Honourable Sir Abdur Rahim): But it does not alter the scope.

The Honourable Sir Sultan Ahmed: So far as the number is concerned, it will.

Mr. President (The Honourable Sir Abdur Rahim): Is there any limit to the number?

The Honourable Sir Sultan Ahmed: Yes, the amendment we have passed.

Mr. President (The Honourable Sir Abdur Rahim): No doubt 12 has been added, but has the total number of members of the Court been fixed?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar (Supply Member): If I may intervene in this discussion, I would draw your attention to section 18(1) of the Act which deals with the categories of persons who may be elected to the Court or nominated. If you refer to section 18(1), Class III—Other members, you will find that item (xiii) says this: persons elected by associations or other bodies approved in this behalf by the Chancellor on the recommendation of the Court.

Now, according to the Statute that we have just passed, the total number of these persons shall not exceed 12. We have just passed an amendment increasing the number from 8 to 12. Therefore the power of electing under this has been exhausted by the amendment which has just been passed.

Mr. President (The Honourable Sir Abdur Rahim): The power is given under the Statute?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: Under the Act.

Mr. President (The Honourable Sir Abdur Rahim): The Act does not mention any limit to the number.

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: The amended Statute has just put a limit on that.

Mr. President (The Honourable Sir Abdur Rahim): What is the language of the Statute?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: The Statute says: The number of persons to be elected as Members of the Court by associations or other bodies approved in this behalf by the Chancellor shall not exceed twelve.

Mr. President (The Honourable Sir Abdur Rahim): Then, this will be barred?

Mr. H. A. Sathar H. Essak Sait (West Coast and Nilgiris: Muhammadan): This is clause (4) which we have passed; we are now dealing with another category, which is being introduced.

Maulvi Muhammad Abdul Ghani: We are now dealing with clause 16.

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: The next category refers to the elected Members of the Legislature. My point is that so far as this statute is concerned, the number should not exceed 12.

Nawabzada Muhammad Liaquat Ali Khan: In that case, my Honourable friend will move Nos. (7) and (8), which will give only 10. He will drop out No. (6). In that case the number is not exceeded and we are within the limit of 12. All that we are doing is that we are mentioning the Associations and fixing their number.

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: Apart from the number, the persons are to be elected by associations or other bodies approved in this behalf by the Chancellor on the recommendation of the Court. Therefore we cannot fix the bodies that are to come in, without the approval of the Chancellor and without the recommendation of the Court.

Mr. President (The Honourable Sir Abdur Rahim): If you place the categories under those heads, then would it not follow that they are to be recommended by the Court and approved by the Chancellor?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: The Associations have to be approved by the Chancellor. The Associations which are given the right to elect members to the Court must under the Act be approved by the Chancellor and therefore we cannot name the associations.

Mr. President (The Honourable Sir Abdur Rahim): Why cannot the Legislature say that such and such associations will send in so many members, subject to the condition mentioned in the section?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: I submit that section 18(1) of the Act is in the way.

Mr. President (The Honourable Sir Abdur Rahim): The Act lays down two conditions—recommendation of the Court and the approval of the Chancellor. If these bodies are empowered to elect, then would it not imply that they are to be recommended by the Court and approved by the Chancellor?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: The Associations must be previously approved by the Chancellor.

Mr. President (The Honourable Sir Abdur Rahim): Then the result will be that the election of these ten persons is subject to the recommendation of the Court and the approval of the Chancellor?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: This is part of the law. The amending law should be in consonance with the main Act. The main Act says that the associations can only be those associations which are approved by the Chancellor.

Mr. President (The Honourable Sir Abdur Rahim): Would it not follow that the election of these persons must be on the recommendation of the Court and approved by the Chancellor. I do not know how it would work.

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: Supposing the Chancellor does not approve of that particular association, after having put it in as part of the statute?

Nawabzada Muhammad Liaquat Ali Khan: All these statutes are really meant to give effect to the Act. This time they have come to the Legislature but statutes can be framed by the Court. It was not necessary for them to have come to the Legislature for the framing of the Statutes. Therefore, when this House has been given the function that the Court has to perform, then I think this House is within its right to amend those statutes in any form it likes. I submit that there is nothing inconsistent in these amendments.

Mr. President (The Honourable Sir Abdur Rahim): Does this require the recommendation of the Court and the approval of the Chancellor?

Nawabzada Muhammad Liaquat Ali Khan: As far as the Court is concerned, the effect of this statute will be that it is the recommendation of the Court, because the Court really interprets the Act by Statutes and these Statutes should have been framed by the Court. The Court was entitled to do that.

Mr. President (The Honourable Sir Abdur Rahim): The Associations will have to be recommended by the Court?

Nawabzada Muhammad Liaquat Ali Khan: We are now performing the function of the Court. The Statutes are framed by the Court. Therefore, the Government having come before the Legislature are usurping the power that vested in the Court. I submit that now the Legislature enjoys the power of the court as far as the framing of the statutes is concerned. Therefore, I submit that the only thing that will have to be done after this will be the approval of the Chancellor. If the Chancellor does not approve them, then these two associations will not get the representation.

Mr. President (The Honourable Sir Abdur Rahim): I do not know whether any purpose will be served because even if this category is accepted by the House as it must be recommended by the court.

Nawabzada Muhammad Liaquat Ali Khan: I feel that the Chancellor and the Court will accept this if it is put in here. I do not see any reason why the Chancellor should reject it. These two bodies are not objectionable associations. Therefore, what I submit is that now that we are framing the statutes we are defining the various bodies that are to elect

Mr. President (The Honourable Sir Abdur Rahim): This is not a recommendation by the Legislature: it is an enactment. If it was a mere recommendation, one could understand it. It is an enactment.

Nawabzada Muhammad Liaquat Ali Khan: May I request you, Sir, to ask the Honourable the Law Member to explain what the position is regarding the framing of the statutes?

The Honourable Sir Asoka Roy (Law Member): Sir, I understand the difficulty which seems to have arisen. It is quite obvious that the main Act must govern the statutes. Now, section 18 tells you what the court shall

[Sir Asoka Roy.]

consist of. It says that the court shall consist of the following persons, namely, Class I—*ex-officio* members, and they are mentioned, Class II—life members and Class III—other members. You have got the other members also specified. Sub-section (2) of section 18 says:

"The number of members to be elected or appointed under clauses (xi), (xii), (xiii), (xiv) and (xv), and the tenure of office of members to be elected or appointed under each clause of Class III, shall be prescribed by the Statutes . . ."

So, the Statutes can only prescribe the number of members and their tenure of office. Further, it is provided by sub-section (2) that the mode of election of members to be elected under clauses (xi) and (xii) shall be prescribed by the Ordinances.

Now, Sir, when you come to the Statutes, you find that Statute 2 deals with the constitution of the Court. The first part refers to section 18(1). Sub-section (1) (ix) of section 18 makes mention of "such other *ex-officio* members as may be prescribed by the statutes". In other words, in addition to the *ex-officio* members mentioned in section 18(1), you have in clause (ix) of Class I "such other *ex-officio* members as may be prescribed by the Statutes". You have a long list of *ex-officio* members prescribed by the Statutes.

Let us go back to section 18, sub-section (2) which says that the number of members to be elected or appointed under various classes of Class III of section 18(1) shall be prescribed by the Statutes. You find that provision has been made in the Statutes for the various classes of members who are to be elected or appointed. Clause (4) of Statute 2 deals with "the number of persons to be elected as members of the court by associations or other bodies approved in this behalf by the Chancellor". This has reference to clause (xiii) of Class III of Section 18(1) of the Act. The Act provides that the associations or other bodies are to be approved in this behalf by the Chancellor. You cannot by adding to the Statute say that the following are going to be the Associations or bodies which the Chancellor must approve of. It would be going against the Act.

Mr. President (The Honourable Sir Abdur Rahim): It is not a recommendation, but it is an enactment. Section 18(1), Class III, item (xiii) is the category under which this is sought to be brought. This category is mentioned in parts (6) and (7) of amendment No. 5. But under item (xiii) of Class III the associations which are to elect persons under this sub-clause have to be approved by the Chancellor on the recommendation of the Court. Now, if the Legislature were to adopt amendment No. 5, categories (6) and (7), then it will be laying down something which would be inconsistent with the provision of the Act. I, therefore, hold that the amendment is beyond the scope of the Bill.

Syed Ghulam Bhik Nairang: Sir, I move:

"That in clause 16 of the Bill, in clause (6) of Statute 2 in the proposed Schedule for the word 'fifteen' the words 'sixteen at least half of whom shall be Muslims' be substituted."

Today I tried so far to keep my hands away from what certain sections in this House appear to be so afraid of, namely, communal amendments. Having found Government very obstinately opposed to my last amendment, I have now to make a present of a communal amendment to this Honourable House. We have talked so much of communalism during the course of the debates on this Bill that I think seriously minded people should give a few moments of anxious thought to the root cause of what leads to this much dreaded thing, communalism. After all, is it merely a childish fancy that has prompted us to take to this thing? That we must have communal representation whether it is necessary or not, whether it is possible or not, whether it is liked by others or not? How is it that we have come to this decision? What is really the matter? Sir, we have treated this House to facts and figures during the many speeches that were made by me and by other Honourable Members of my Party. We have shown that our position in the Delhi University is one of utter helplessness, that we are for all intents and purposes

a non-entity in that great body, and it is solely in the interests of higher education of the Muslims that we want a larger and more effective representation on this great body, the Court of the Delhi University.

An Honourable Member: Please speak up.

Syed Ghulam Bhik Nairang: My Honourable friend may rest assured that I am anxious to be heard, I am also anxious to be listened to, and if I feel sure that I shall be listened to, I shall take care to be heard all over the House. I say that merely to complain that we are putting forward the communal point of view again and again before this House is not solving the problem. You should think what it is that makes us repeat our requests in various forms, on various occasions, and with various arguments that Muslims should get adequate representation, effective representation in this great institution, the Delhi University. I have said and I say again at the risk of being charged with repeating the same thing over and over again that it is because we have suffered in the past, we have suffered all these 20 years that this great University has existed and it is because we have felt that our position in the University has been one of a non-entity that we are repeatedly putting forward the same kind of amendments and the same case over and over again in various forms.

Now, Sir, the present amendment which I have moved seeks to amend clause (6) of Statute 2 in the proposed schedule. We proposed to increase the number of persons to be appointed by the Chancellor to 16 and we want that at least half of them should be Muslims. I have moved this amendment in order to secure some representation. I do not mean to say that the mere fact that at least eight persons will be nominated by the Chancellor to the membership of the court will give us effective representation, but anyhow, to a certain extent, our position will be improved, if it is laid down that at least half of the 16 persons to be nominated by the Chancellor shall be Muslims. Originally, it was 15 and I could not ask for half of this, which is $7\frac{1}{2}$ and so I propose to increase the number to 16 and ask for half, that is eight. Sir, I move.

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

"That in clause 16 of the Bill, in clause (6) of Statute 2 in the proposed Schedule for the word 'fifteen' the words 'sixteen at least half of whom shall be Muslims' be substituted."

Mr. J. D. Tyson: Sir, I think my Honourable friend was less than fair to us—and this is very unusual in him—he was less than fair to us in saying that he had tried us with non-communal amendments and we would have nothing to do with them—I think he said that we obstinately turned all of them down—and that therefore he must now come with communal amendments. Sir, I must point out that the first of his non-communal amendments I accepted and in the case of the second one, I do respectfully submit that all I did was to prevent the House from making a Statute which would have been repugnant to the Act.

Syed Ghulam Bhik Nairang: If my Honourable friend felt that the amendment was not non-communal, I could have explained a little further, if only I had been allowed to do so.

Mr. J. D. Tyson: But it was not in order. It was no use my Honourable friend explaining it at length.

Syed Ghulam Bhik Nairang: But you wanted to get my amendment ruled out by hook or crook.

Mr. J. D. Tyson: As regards the present amendment, I may point out that it does not do as much for my Honourable friend or his community as the amendment which I hope to move next will make possible, and I prefer my own amendment, for it opens the door for the Chancellor to help not only one community but communities other than that for which my Honourable friend at this moment is speaking. Sir, I cannot therefore accept the amendment.

Nawabzada Muhammad Liaquat Ali Khan: Sir, my Honourable friend the Education Secretary has opposed this amendment on the ground that his amendment is intended to do more for the Muslims and other minority communities than the amendment which has been proposed by my Honourable

[Nawabzada Muhammad Liaquat Ali Khan.]
 friend, Syed Ghulam Bhik Nairang. I do not know, Sir, how he makes out that it is so. All that he says in his amendment is:

"twenty-five of whom not less than eighteen shall be appointed to secure the representation of minorities not otherwise in his opinion adequately represented."

Sir, I do not know what he means by this.

Mr. J. D. Tyson: In the Chancellor's opinion.

Nawabzada Muhammad Liaquat Ali Khan: If the Chancellor whose ears are the Education Secretary, the Chief Commissioner, the Deputy Commissioner and the Tahsildar and whose eyes are the Superintendent of Police and the Sub-Inspector of Police, if he is satisfied that a certain community is not adequately represented, then he might nominate persons up to the extent of 18.

Mr. J. D. Tyson: My Honourable friend has not done so badly already.

Nawabzada Muhammad Liaquat Ali Khan: My Honourable friend says we have not done badly. Perhaps not in quantity, but in quality, we have done very badly. That is what I fear. What we proposed in all our amendments was that we wanted direct representation, elected representation for the Muslims, and it was with the deliberate intention that the Muslims who go to these various bodies and the Universities should be such who would fearlessly and independently put the point of view of Muslims in those bodies. Sir, what I have to say with regard to the amendment that will be moved by my Honourable friend Mr. Tyson, I shall reserve when it is moved. At present, what I am saying is this, that we do not want to leave our fate in uncertainty. We want that a definite number of Muslims should be on the court of the University. I am not ashamed to say this. I say this openly and fearlessly that we as Muslims do demand a share in every body that manages either the University or any other institution. I am not ashamed to say that. You may call it communalism, this 'ism' or that 'ism'.

Mr. President (The Honourable Sir Abdur Rahim): Now, it is five o'clock. Perhaps the Honourable Member would like to continue his speech the next day when this Bill is taken up.

Nawabzada Muhammad Liaquat Ali Khan: Yes, Sir. I will take some time more to finish my speech.

STATEMENT OF BUSINESS.

The Honourable Sir Sultan Ahmed (Leader of the House): Sir, when I mentioned the question of further sittings last Monday you directed the House to sit till today and left the question of further sittings to be considered by you this afternoon. When the matter was mentioned by me on Monday last I at least could not realise that the next Monday would be a holiday being the Shab-e-Barat day, and I therefore submit to you and to the House that it is desirable that we should sit tomorrow. (*Voices of "No, no"*) If, however, the general view of the House is against it the House will have to sit from Tuesday onwards.

Mr. President (The Honourable Sir Abdur Rahim): I believe the House would like to know how long they will have to sit. Can you give us any idea?

Nawabzada Muhammad Liaquat Ali Khan (Rohilkund and Kumaon Divisions: Muhammadan Rural): I cannot answer that question. It is for the Government to say.

Mr. President (The Honourable Sir Abdur Rahim): I believe there is a large section of the House which is opposed to sitting on Saturday next. The House will therefore sit next Tuesday and from day to day until the Government business is finished.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 17th August, 1948.