

2nd April, 1947

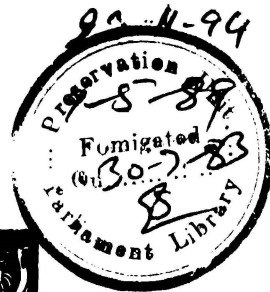
THE
LEGISLATIVE ASSEMBLY DEBATES
Official Report



Volume IV, 1947

(25th March, 1947 to 9th April, 1947)

THIRD SESSION
OF THE
SIXTH LEGISLATIVE ASSEMBLY
1947



LEGISLATIVE ASSEMBLY

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The Honourable Mr. G. V. MAVALANKAR.

Deputy President:

Khan MOHAMMAD YAMIN KHAN, M.L.A.

Panel of Chairmen:

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Mr. P. J. GRIFFITHS, M.L.A.

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Shri SRI PRAKASA, M.L.A.

Mr. C. P. LAWSON, M.L.A.

Sardar MANGAL SINGH, M.L.A.

CONTENTS

Volume IV—25th March, 1947 to 9th April, 1947

TUESDAY, 25TH MARCH, 1947—	Pages
Starred Questions and Answers	2385—2426
Unstarred Questions and Answers	2426—27
Motion for Adjournment <i>re</i> Murder of Muslims near Kotwali, Chandni Chowk Delhi—Not moved	2427—28
Message from the Council of State	2428
Election to Standing Committee for External Affairs Department	2428—30
Election to Standing Committee for Commonwealth Relations Department	2430
Election to Standing Committee on Pilgrimage to the Hejaz	2430—31
Election to Standing Committee for Commerce Department	2431
Death of Dr. Sir Azizul Haque	2432
Indian Finance Bill—Discussion on the motion to consider not concluded	2433—66
WEDNESDAY, 26TH MARCH, 1947—	
Starred Questions and Answers	2467—96
Unstarred Questions and Answers	2496—2501
Short Notice Questions and Answers	2502—03
Election to Standing Committee on Roads	2503
Election to Standing Committee for Food Department	2503
Election to Standing Committee for Industries and Supplies Department	2503
Election to Standing Committee for Education Department	2504
Election to Council of Indian Institute of Science Bangalore	2504—05
Election to Standing Committee for Agriculture Department	2505
Indian Finance Bill—Discussion on Motion to consider not concluded	2505—43
THURSDAY, 27TH MARCH, 1947—	
Starred Questions and Answers	2545—50
Election to Standing Committee for Works, Mines and Power Department	2551
Election to Standing Committee for Communications Department	2551
Election to Central Advisory Council for Railways	2551
Election to Standing Committee for Information and Broadcasting Department	2551
Election to Central Committee of the Tuberculosis Association of India	2552
Election to Governing Body of Indian Research Fund Association	2552
Election to Standing Committee for Legislative Department	2553—54
Election to Standing Finance Committee	2554—55
Indian Finance Bill—Discussion on the Motion to consider not concluded	2555—2610
FRIDAY, 28TH MARCH, 1947—	
Starred Questions and Answers	2611—34
Short Notice Question and Answer	2635—36
Motion for Adjournment <i>re</i> Discriminative Policy of Delhi Administration against Muslim Press—Postponed	2636—37
Election to Defence Consultative Committee	2638
Election to Standing Committee for Home Department	2638
Election to Standing Committee on Pilgrimage to the Hejaz	2638
Election to Standing Committee for Commerce Department	2638
Indian Finance Bill—Passed	2639—72
Demands for Supplementary Grants for 1946-47—Discussion not concluded	2673—77
MONDAY, 31ST MARCH, 1947—	
Members Sworn	2679
Starred Questions and Answers	2679—2726
Unstarred Questions and Answers	2726—28
Short Notice Questions and Answers	2728—30
Motions for Adjournment <i>re</i> — Delhi Administration's Discrimination against Muslim Press and Preferential Treatment towards Hindu Press in the matter of Publication of Reports of Communal Clashes—Ruled out of Order	2730—32
Burning Alive of Four Scheduled Caste Men and Two Herds of Cattle in the Aligarh District, U. P.—Ruled out of Order	2732—33

Motions for Adjournment *re—contd.*

	Pages
Appointment of an Englishman as Principal Secretary, Finance Department, Government of India, overlooking the Claims of Indians—Disallowed	2733—34
Election to Standing Committee for Labour Department	2734
Election to Standing Committee for Industries and Supplies Department	2735
Election to Standing Committee for Education Department	2735
Election to Standing Committee for Health Department	2735
Election to Indian Oilseeds Committee	2735—36
Taxation on Income (Investigation Commission) Bill—Extension of Date of Presentation of Report of Select Committee and Appointment of certain new Members to Select Committee	2736—38
Demand for Supplementary Grant for 1946-47	2738—45
Central Excises and Salt (Amendment) Bill—Introduced	2745
Capital Issues (Continuance of Control) Bill—Referred to Select Committee	2745—52
Business Profits Tax Bill—Motion to consider as reported by Select Committee not concluded	2753—72
TUESDAY, 1ST APRIL, 1947.—	
Starred Questions and Answers	2773—89
Message from the Council of State	2789
Election to Standing Committee for Information and Broadcasting Department	2789
Election to Council of the Institute of Science, Bangalore	2789
Election to Standing Committee for Agriculture Department	2790
Commencement of the Meeting of Assembly at 12 Noon on the 2nd April and suspension of Question Hour	2790—91
Report of the Labour Investigation Committee—laid on the table	2791
Rubber (Production and Marketing) Bill—Presentation of Report of Select Committee	2791
Control of Shipping Bill—Presentation of Report of Select Committee	2791
Reserve Bank of India (Second Amendment) Bill—Introduced	2791
Indian Tariff (Amendment) Bill—Introduced	2791
Business Profits Tax Bill—Passed as amended.	2792—2825
Income-Tax and Excess Profits Tax (Amendment) Bill—Discussion on the motion to consider not concluded	2825—32
WEDNESDAY, 2ND APRIL, 1947.—	
Starred Questions and Answers	2833—55
Unstarred Questions and Answers	2856
Election to Standing Committee for External Affairs Department	2856—57
Election to Standing Committee on Commonwealth Relations	2857
Election to Standing Committee of Tuberculosis Association of India	2857
Election to Governing Body of Indian Research Fund Association	2857
Delhi Sikh Gurdwaras and Religious Endowments Bill—Nomination of Members to Joint Committee	2857—58
Indian Railways (Amendment) Bill—Referred to Select Committee	2858—63
Child Marriage Restraint (Amendment) Bill—Circulated	2864—89
Indian Penal Code and the Code of Criminal Procedure (Amendment) Bill—Discussion on the motion to refer to Select Committee not concluded	2889—92
THURSDAY, 3RD APRIL, 1947.—	
Starred Questions and Answers	2893—2934
Unstarred Questions and Answers	2834—39
Short Notice Questions and Answers	2939—40
Election to Central Advisory Council for Railways	2940
Taxation on Income (Investigation Commission) Bill—Appointment of a Member to Select Committee <i>vice</i> another resigned	2940
Indian Railways (Amendment) Bill—Appointment of a Member to Select Committee <i>vice</i> another resigned	2941
Resolution <i>re</i> Release of Indian National Army Prisoners—Withdrawn	2941—59
Resolution <i>re</i> Appointment of a Retrenchment Committee—Discussion not concluded.	2959—75
MONDAY, 7TH APRIL, 1947.—	
Member Sworn	2977
Starred Questions and Answers	2977—94
Motion for Adjournment <i>re</i> Communal Propaganda by Mr. Isphani, Leader of Indian Trade Mission to Middle East—Disallowed	2994—95

	Pages
Election to Standing Committee for Health Department	2995
Election to Indian Oilseeds Committee	2995
Summary of Proceedings of Ninth Meeting of Standing Labour Committee— Laid on the Table	2995
Capital Issues (Continuance of Control) Bill—Presentation of Report of Select Committee	2996
Income-Tax and Excess Profits-Tax (Amendment) Bill—Passed as amended	2996—3011, 3012—40
Taxation on Income (Investigation Commission) Bill—Presentation of Report of Select Committee	3012
TUESDAY, 8TH APRIL, 1947—	
Starred Questions and Answers	3041—71
Unstarred Questions and Answers	3072
Short Notice Questions and Answers	3072—79
✓ Motion for Adjournment <i>re</i> Pulling of the Chain and the Looting of Luggage of Passengers at Hardwagunj Railway Station—Ruled out of Order.	3079—80
Election of a Member to Central Advisory Council for Railways	3080
Rubber (Production and Marketing) Bill—Passed as amended	3080—88
Reserve Bank of India (Second Amendment) Bill—Passed	3088—3104
Indian Tariff (Amendment) Bill—Passed	3104—07
WEDNESDAY, 9TH APRIL, 1947—	
Member Sworn	3119
Starred Questions and Answers	3119—73
Unstarred Questions and Answers	3173—82
Short Notice Question and Answer	3183—84
Motion for Adjournment <i>re</i> Impending Danger to Calcutta Port due to suspension of Dredging Operations in the River Hoogly as a result of Strike of Opera- tives—Disallowed	3184—86
Notification <i>re</i> Amendment in the Indian Aircraft Rules—laid on the table	3186
Election of a Member to Standing Committee for Information and Broadcasting Department	3186
Election of a Member to Standing Committee for Commerce Department	3187
Election of a Member to Standing Committee for Food Department	3187
Antiquities (Export Control) Bill—Introduced	3187—88
Control of Shipping Bill—Passed as amended	3188—3203
Motor Vehicles (Second Amendment) Bill—Passed as amended	3203—15
Indian Coinage (Amendment) Bill—Discussion on the motion to consider not concluded.	3215—23

LEGISLATIVE ASSEMBLY

Wednesday, 2nd April, 1947

The Assembly met in the Assembly Chamber of the Council House at Twelve Noon, Mr. President (The Honourable Mr. G. V. Mavalankar) in the Chair.

STARRED QUESTIONS AND ANSWERS†

RURAL REPRESENTATION IN THE ADVISORY COUNCIL FOR DELHI ADMINISTRATION

1331. *Seth Govind Das: Will the Honourable the Home Member please state:

(a) whether Government are aware that no provision has been made for the adequate representation of the rural population of Delhi in the Advisory Council proposed to be set up by the Delhi Administration; and

(b) whether Government are aware that the rural population of Delhi is as much as one third of the total population and whether Government propose to take steps for their adequate representation?

The Honourable Sardar Vallabhbhai Patel: (a) The Honourable Member's attention is invited to rule 1 of the Rules regulating the constitution and procedure of Advisory Councils published with the Home Department Notification No. 24/12/46-Public, dated the 8th February 1947.

(b) The rural population of Delhi is *not* one-third of the total population. I am satisfied that the present composition of the Advisory Council sufficiently safeguards rural interests.

DIFFERENCE IN SALARIES OF THE SUBORDINATE STAFF OF THE CENTRAL DEPARTMENTS AND ATTACHED OFFICES

1332. *Seth Govind Das: (a) Will the Honourable the Finance Member please state the reasons for the difference in the salaries of the subordinate staff of the Central Departments and that of their attached offices?

(b) Are Government aware that the staff of both the Central Departments and the attached offices are mostly living in Delhi and are subject to the same cost of living?

(c) If so, do Government propose to remove the difference in their salaries?

(d) Has this question been referred to the Central Pay Commission?

(e) If not, why not?

The Honourable Mr. Liaquat Ali Khan: (a) and (b). Variations in the pay scales between different offices at headquarters (as elsewhere) are attributable to the difference in the nature and complexity of the work required to be performed by each category of staff.

(c) to (e). The question will be fully examined in the light of the recommendations of the Central Pay Commission for the rationalisation and simplification of pay scales in all offices, including those at the headquarters of the Government of India.

ADVANCE PAYMENT OF INCOME-TAX

1333. *Mr. Manu Subedar: (a) Will the Honourable the Finance Member be pleased to state under what circumstances Government instituted the system of advance payment of income-tax?

†Answers to these questions laid on the table of the House, the question hour having been dispensed with.—*Ed. of D.*

(b) If it was an anti-inflationary measure, on what grounds do Government consider it necessary to continue it any longer?

(c) Have Government examined the question of giving relief to income-tax payers in respect of taking such payment in advance on an estimate?

(d) In what percentage of tax-payers such advance estimates tallied and how much interest was paid by Government, and in how many cases penalties were imposed?

The Honourable Mr. Liaquat Ali Khan: (a) I would invite the Honourable Member's attention to paragraphs 58 and 59 of Sir Jeremy Raisman's speech delivered by him on presentation of the Budget for 1944-45.

(b) The Government do not consider that the circumstances have materially changed in this respect since the 'Pay as you Earn' system was introduced.

(c) Yes, Sir, the Government have examined the question but they do not consider that the scheme involves any real hardship to the tax-payer. The scheme was in fact already there in the Indian Income-tax Act in respect of income from "salaries" and "interest on securities" and has since been extended to include other incomes.

(d) Complete information is available in respect of only one year, *viz.*, 1944-45 in which advance payments of tax were made against the regular assessments for 1945-46. The information for that year is:

In about 55 per cent. cases the estimates submitted by the tax-payers tallied.

Amount of interest paid by Government was Rs. 67,88,225.

Penalties were levied in about 400 cases only out of 94,692 cases in which advance payment of tax was demanded.

INCREASED WORK IN THE INCOME-TAX DEPARTMENT ON ACCOUNT OF ADVANCE PAYMENT OF INCOME-TAX

1334. ***Mr. Manu Subedar:** (a) Will the Honourable the Finance Member be pleased to state whether it is a fact that the work of the Income-tax Department has increased on account of the institution of the system of advance payment of income-tax, and generally that the number of men available in the Department for copying with the task of assessing income-tax is found to be smaller than that required for the work?

(b) In which Income-tax Circles cases are pending for the payment of income-tax in respect of the Income-tax year (i) 1942-43, (ii) 1943-44, (iii) 1944-45 and (iv) 1945-46?

The Honourable Mr. Liaquat Ali Khan: (a) While the introduction of the scheme of advance payment of tax has added to the work of the Income-tax Department, the scheme is so devised as to throw on the Department comparatively little extra work and the necessary additional staff required for this has been found without any great difficulty. It is correct however to say that the number of trained and qualified Income-tax Officers now available does not as yet fully meet the needs of the department. Steps have however been taken to remedy this situation without delay.

(b) The information is not readily available circle by circle.

GRATUITIES AND COMPENSATION TO BRITISH OFFICERS OF THE INDIAN ARMY BEING TAKEN OVER BY HIS MAJESTY'S GOVERNMENT

1335. ***Mr. Manu Subedar:** (a) Will the Secretary of the Defence Department be pleased to state how many British Officers of the Indian Army are being taken over by His Majesty's Government?

(b) Are these persons going to receive any special grant, gratuity, allowance or compensation and, if so, what?

(c) What steps are Government taking in order to substitute Indians in place of these officers?

(d) How many of the Indian officers on temporary service have already been taken for filling such vacancies?

(e) What is the total number of Indian officers in all the services, who have been demobilised after temporary service and what steps are Government taking in order to select suitable men from among them for the replacement of the British officers who are going?

Mr. G. S. Bhalja: (a) to (d). I would refer the Honourable Member to my reply to Starred Question No. 1250 asked on the 28th March 1947.

(e) A total of 4,000 officers (including 2,700 medical officers) have been demobilized. Most of them have applied for regular and Short Service Commissions. Many have been successful and others are being interviewed. In this connection I would invite the Honourable Member's attention to my answer to part (g) of Starred Question No. 1250 asked on the 28th March 1947.

REMOVAL OF CORRUPTION FROM GOVERNMENT DEPARTMENTS

1336. *Mr. Ahmed E. H. Jaffer: (a) Will the Honourable the Home Member be pleased to state what steps Government propose to take to remove corruption from Government departments?

(b) Do Government propose to legislate in this behalf?

The Honourable Sardar Vallabhbhai Patel: (a) and (b). I would refer the Honourable Member to the reply given to parts (c) and (f) of his starred question No. 410 on the 20th February 1947.

ACCUMULATION OF STERLING BALANCES

1337. *Mr. Ahmed E. H. Jaffer: Will the Honourable the Finance Member be pleased to state:

(a) the amount of India's sterling balance accumulated in the United Kingdom for the period ending 31st December 1946; and

(b) the results of the talks between the Government of India and the Financial Delegation from the United Kingdom?

The Honourable Mr. Liaquat Ali Khan: (a) I would invite attention to my reply to part (a) of the Honourable Member's question No. 963 on the 17th March 1947.

(b) I would invite attention to the Press Communique, dated 15th February 1947 and to paragraph 30 of my Budget Speech.

BRITISH BROADCASTING CORPORATION

1338. *Seth Govind Das: Will the Honourable Member for Information and Broadcasting be pleased to state:

(a) whether Government are aware of the public feeling against the British Broadcasting Corporation news relays at 9 p.m. daily from the All India Radio; and

(b) if so, what action Government propose to take to stop this relay?

The Honourable Sardar Vallabhbhai Patel: (a) No.

(b) Government propose to institute enquiries to ascertain the wishes of listeners.

RECIPROCAL HELP TO ALL-INDIA RADIO FOR RELAYING BRITISH BROADCASTING CORPORATION NEWS TO CHINA, JAPAN AND SIAM

1339. *Seth Govind Das: Will the Honourable Member for Information and Broadcasting be pleased to state:

(a) whether Government are aware that daily for one hour and ten minutes the All India Radio relays the British Broadcasting Corporation news to China, Japan and Siam; and

(b) whether the All India Radio is getting any reciprocal help from the British Broadcasting Corporation?

The Honourable Sardar Vallabhbhai Patel: (a) No. The duration of the news in these relays is about 45 minutes daily.

(b) Yes.

BOARDS FOR TESTING OFFICERS FOR GRANT OF PERMANENT AND SHORT SERVICE COMMISSIONS

1340. *Mr. Ahmed E. H. Jaffer: (a) Will the Secretary of the Defence Department please state how many officers have been given Permanent Commissions and Short Service Commissions after the termination of World War II from among the following communities: Muslim, Hindus, Sikhs and Others?

(b) How many Boards have been constituted for testing officers for Permanent Commissions and Short Service Commissions?

(c) Do Government propose to lay on the table of the House a statement in the *proforma* given below showing the composition of the Boards and the Directorate and the rank of the officers?

(i) Directorates :	Muslims	Hindus	Sikhs	Other Classes
Director				
Deputy Director				
Psychologists and other staff Officers.				
Psychiatrists				
Other ranks employed as Psychologists, Psychiatrists, testers, Clerks etc.				
(ii) Selection Boards :				
Presidents				
Deputy Presidents				
Psychologists				
Psychiatrists				
Staff Officers				
Testing officers				
Office staff				

Mr. G. S. Bhalja: (a) I lay two statements (Nos. I and II) on the table of the House.

(b) Eight Boards were constituted of which one has since been disbanded.

(c) I lay two statements (Nos. III and IV) on the table of the House.

STATEMENT I

Permanent Commissions granted or for which Selections have been made

	RIN	Indian Army	RIAF
Muslims	27	367	64
Hindus	51	538	140
Sikhs	16	281	39
Others	62	210	87
Total	156	1,396	330

* This includes 11 British Officers

STATEMENT II

Short Service Commissions granted or for which Selections have been made

	RIN	Indian Army	RIAF
Muslims	Nil	214	Nil
Hindus	"	321	"
Sikhs	"	173	"
Others	"	84	"
Total	Nil	792	Nil

STATEMENT III

Composition of the Directorate of Selection of Personnel as on the 28th March 1947

		Muslims	Hindus	Sikhs	Others	Total
Navy—						
P. S. O.	Lt.	1	...	...	...	1
Testers	C. P. O.	3	...	...	...	3
Total		4	...	...	...	4
Army—						
Director	Brig. . . . .	...	1	...	...	1
Dy. Director	Col.	1	...	...	...	1
A. A. G.	Lt.-Col.	1	...	...	...	1
Psychiatrist . . . . .	" . . . . .	...	...	...	1	

		Muslims	Hindus	Sikhs	Others	Total
Psychologists	Lt.-Col. . . . .	...	1	...	...	1
	Major	1	...	...	...	1
	Capt.	1	...	...	...	1
D. A. A. Gs.	Major . . . . .	...	1	1	1	3
Staff Cpts.	Capt. . . . .	...	1	...	4	5
P. S. Os.	Major . . . . .	...	1	...	...	1
	Capt. . . . .	...	2	...	...	2
VCO Testers . . . . .	...	1	2	2	1	6
BOR Clerks . . . . .	...	...	...	...	21	21
Civilian Clerks . . . . .	...	14	61	...	...	75
Total		19	70	3	28	120
Air Force—						
Staff Officers	S/Ldr. . . . .	...	1	...	...	1
	F/Lt. . . . .	...	1	...	...	1
P. S. O.	F/Lt. . . . .	...	1	...	...	1
Testers	Sgts.	1	2	...	...	3
Clerks	Cpls. . . . .	...	2	...	...	2
Total		1	7	...	...	3

STATEMENT IV

Composition of Services Selection Boards as on the 28th March 1947

		Muslims	Hindus	Sikhs	Others	Total
52 (Army) Board, Rawalpindi—						
President	Col. . . . .	...	1	...	...	1
Dy. President	Lt.-Col.	1	...	...	...	1
G. T. Os.	Major	1	...	...	...	1
	Capt. . . . .	...	2	...	1	3
Psychiatrist . . . . .	...	...	1	...	...	1

		Muslims	Hindus	Sikhs	Others	Total
50 (Army) Board, Rawalpindi—						
Psychologist . . . .	...	1	...	...	...	1
Staff Captain . . . .	...	...	1	...	...	1
Clerical staff enrolled and un-enrolled	...	...	5	3	1	9
Total . . . .	...	3	10	3	2	18
53 (Army) Board, B reilly—						
President	Col. . . .	1	...	...	...	1
Dy. President	Lt.-Col. . . .	...	1	...	...	1
G. T. Os. . . .	Major . . . .	...	1	...	...	1
	Capt. . . .	...	...	1	1	2
Psychologist . . . .	...	...	1	...	...	1
Staff Captain . . . .	...	...	...	...	1	1
Clerical staff enrolled and un-enrolled	...	1	4	1	1	7
Total . . . .	...	2	7	2	3	14
54 (Army) Board, Japan—						
President	Col. . . .	...	1	...	...	1
Dy. President	Lt.-Col. . . .	...	...	...	...	...
G. T. Os. . . .	Major . . . .	...	1	...	...	1
	Capt. . . .	...	...	...	1	1
Psychiatrist . . . .	...	...	1	...	...	1
Psychologist . . . .	...	...	1	...	...	1
Staff Captain . . . .	...	...	...	...	1	1
Clerical staff enrolled and un-enrolled	...	1	1	...	5	7
Total . . . .	...	1	5	...	7	13
55 (Army) Board, Bangalore—						
President	Col. . . .	...	1	...	...	1
Dy. President	Lt.-Col. . . .	...	1	...	...	1
G. T. Os. . . .	Major . . . .	...	...	...	1	1
	Capt. . . .	1	...	...	2	3

		Muslims	Hindus	Sikhs	Others	Total
55 (Army) Board, Bangalore—contd.						
Psychologist . . . . .	...	...	...	...	1	1
Staff Captain	Capt. . . . .	...	...	...	1	1
Clerical staff enrolled and un-enrolled	...	...	4	...	3	7
Total . . . . .	...	1	6	...	8	[15]
56 (Navy) Board, Lonavla— (Disbanded: 15/9/1946)						
President	Capt. R1NR . . . . .	...	...	...	1	1
Dy. President	Commander . . . . .	...	1	...	...	1
G. T. Os.	Lt. Comdr./R1NVR	...	1	...	...	1
	Lieut./R1NVR	...	...	...	1	1
Psychologist	Major . . . . .	...	...	...	1	1
Staff Capt.	Capt. . . . .	...	...	...	1	1
Clerical staff enrolled and un-enrolled	...	1	2	...	3	6
Total . . . . .	...	1	4	...	7	12
57 (RIAF) Board, Dehra Dun—						
President	Gp. Capt. . . . .	...	...	...	1	1
Dy. President	W/Cdr. . . . .	...	1	...	...	1
G. T. Os.	S/Ldr.	1	...	...	...	1
	F/Lts.	1	1	...	...	2
Psychiatrist	S/Ldr. . . . .	...	1	...	...	1
Psychologist	F/Lt.	1	...	...	...	1
Staff Capt.	Capt. . . . .	...	1	...	...	1
Testers	Sgts.	2	2	...	...	4
Clerical Staff enrolled and un-enrolled	...	...	9	...	2	11
Total . . . . .	...	5	15	...	3	23

		Muslims	Hindus	Sikhs	Others	Total
58 (Army) Board, Dehra Dun—						
President	Col.	1	...	...	...	1
Dy. President	Lt.-Col. . . . .	...	1	...	...	1
G. T. Os.	Major . . . . .	...	...	...	1	1
	Cpts. . . . .	...	...	...	3	3
Psychologist . . . . .	... . . . .	...	1	...	...	1
Staff Capt.	Capt. . . . .	...	...	...	1	1
Clerical Staff enrolled and un-enrolled		4	3	...	1	8
Total . . . . .	...	5	5	...	6	16
71 (Army) Board Meerut—						
President	Col. . . . .	...	...	...	1	1
Dy. President	Lt.-Col. . . . .	...	1	...	...	1
G. T. Os.	Major . . . . .	...	2	...	...	2
	Capt. . . . .	...	1	...	...	1
Psychiatrist . . . . .	... . . . .	...	...	...	1	1
Psychologist . . . . .	... . . . .	1	...	...	...	1
Staff Captain	Capt.	1	...	...	...	1
Clerical Staff enrolled and un-enrolled	...	1	7	...	1	9
Total		3	11	...	3	17

PROPERTY OF RAJA MAHENDRA PRATAP

1341. *Shri Sri Prakasa: Will the Honourable the Home Member be pleased to state:

(a) if the property of Raja Mahendra Pratap was attached during World War I under the Bengal Regulation of 1818 on the ground that he had 'treasonably allied himself with the enemy';

(b) if under the 'Mahendra Pratap Singh Estate Act, 1923', his property was forfeited and granted to his sons under certain conditions; and if so, what were the conditions;

(c) if the sons of Raja Mahendra Pratap are in possession of the property to-day;

(d) if Raja Mahendra Pratap has now been allowed to come back to his country and has actually come back; and

(e) if Government propose to consider the question afresh and introduce legislation to give back to Raja Mahendra Pratap what his own share in the property would have been under the Mitakshara Law?

The Honourable Sardar Vallabhbhai Patel: (a) The property was attached under Bengal Regulation III of 1818 as according to the then Government there was ground for believing that he had aided the King's enemies during the 1914—18 War.

(b) The conditions were as follows:

- (1) That Prem Pratap Singh and his heirs will be faithful and bear true allegiance to His Majesty King George the Fifth, his heirs and successors according to law.
- (2) That he or his heirs shall maintain Rani Sarup Kuar the surviving widow of Raja Har Narain Singh, his grand-father in the manner in which Rani Sarup Kuar has been maintained heretofore.
- (3) That he or his heirs shall maintain and provide for the expenses of the marriage of his sister Bakhti Bai in a manner befitting her position.
- (4) That neither he nor his heirs shall during the life time of Mahendra Pratap Singh alienate any of the properties granted to him and his heirs or any property that may have accrued to him and his heirs as a member of a joint Hindu family without the sanction in writing of the Government of the United Provinces of Agra and Oudh.
- (5) That neither he nor his heirs shall render assistance or support to Mahendra Pratap Singh either pecuniarily or otherwise in any manner whatsoever.
- (6) That neither Prem Pratap Singh nor his heirs nor any one claiming through or in trust for him shall bring any action, suit, claim or demand against the Government of India, the Government of the United Provinces of Agra and Oudh, the Board of Revenue for the United Provinces of Agra and Oudh or any official acting on behalf of the said Governments or the said Board of Revenue with regard to any action taken or anything done by the aforesaid Governments, Board of Revenue or their officials touching any matter in any way relating to the attachment or forfeiture of the property.

(c) As far as Government is aware Prem Pratap Singh, the son of Mahendra Pratap Singh, is in possession of the property granted under the *Sanad*.

(d) Yes.

(e) This matter is no longer the concern of the Government of India but is within the discretion of the Government of the United Provinces.

UTILISATION OF MONEY FROM THE SCHEDULED BANKS HELD BY RESERVE BANK OF INDIA

1342. *Shri Sri Prakasa: Will the Honourable the Finance Member be pleased to state:

(a) the amount of money from the scheduled banks of the country which is held by the Reserve Bank of India under the heads 'Time Liabilities' and 'Demand Liabilities' without interest; and

(b) the manner in which it utilises the money?

The Honourable Mr. Liaquat Ali Khan: (a) I would invite the Honourable Member's attention to the statement of the position of Scheduled Banks published weekly by the Reserve Bank under Section 43 of the Reserve Bank of India Act.

(b) The statutory deposits of Scheduled Banks are not required under the Act to be earmarked for a particular purpose and form part of the assets of the Bank. The distribution of these assets is set out in the weekly statement of the affairs of the Banking Department of the Bank.

TRAINING OF INDIAN STUDENTS ABROAD

1343. *Pandit Sri Krishna Dutt Paliwal: Will the Honourable Member for Education please state:

(a) whether Government have appointed or propose to appoint any Committee to advise them on the question of training Indian students abroad; and

(b) whether Government have formulated any plans for sending students to countries other than the United Kingdom and the United States of America?

Honourable Maulana Abul Kalam Azad: (a) Yes Sir. Attention of the Honourable Member is invited to the reply given to question Nos. 855 and 1245 by Seth Govind Das on the 12th March 1947 and the 28th March 1947, wherein it was stated that Government have appointed a Committee to enquire into the whole question of Overseas Scholarships.

(b) The intention has all along been to place students in those countries abroad where the best facilities for the subject for which they are selected are available. So far scholars have been sent to Australia, New Zealand, Canada and France besides the United Kingdom and the United States of America. The said Committee will look into this aspect of the question also.

WELFARE BRANCH OF THE HIGH COMMISSIONERS OFFICE FOR HELPING INDIAN STUDENTS

1344. *Pandit Sri Krishna Dutt Paliwal: Will the Honourable Member for Education please state:

(a) whether it is a fact that Government have established a separate Welfare Branch in the Education Department of the High Commissioner's office in the United Kingdom to help the Indian students in regard to their accommodation and general welfare; and

(b) whether Government have established another hostel in London to serve as a Reception and Transit Camp for Indian students?

The Honourable Maulana Abul Kalam Azad: (a) and (b). These matters have been fully discussed with the Deputy High Commissioner for India in the United Kingdom when he was recently in Delhi for this purpose, and the High Commissioner has been asked to submit detailed proposals urgently. Government expect to be able to make the necessary arrangements in the near future.

SCHOLARSHIPS FOR WOMEN STUDENTS FOR STUDIES ABROAD

1345. *Pandit Sri Krishna Dutt Paliwal: Will the Honourable Member for Education please state:

(a) if Government have earmarked any percentage of scholarships for studies abroad for women students; and

(b) the number of women scholars who have been sent abroad this year?

The Honourable Maulana Abul Kalam Azad: (a) No percentage of Overseas Scholarships awarded by the Government of India has so far been earmarked for women candidates. Of the Provincial Governments, Bengal and Punjab earmarked six and two scholarships respectively for women candidates in 1946, without, however, earmarking any percentage. Similarly, the Government of India have this year earmarked three scholarships for women candidates, one each for Teacher Training in Crafts, School Medical Service and Physical Training. In addition to these, scholarships for subjects like Domestic Science and Nursery Education naturally go to women candidates.

(b) The question does not arise at this stage as the award of Overseas Scholarships this year, both Central and Provincial, has not yet been finally settled.

In this connection I should like to state that the committee under the chairmanship of Dr. B. C. Roy which has been appointed to go into the question of the future policy of Government regarding overseas scholarships will consider this aspect of the question also.

RULES GOVERNING THE GRANT OF SUBVENTION TO SIND, N. W. F. P. AND ORISSA

1346. *Maharajkumar Dr. Sir Vijaya Ananda: (a) Will the Honourable the Finance Member be pleased to state the rules that govern the grant of subvention to the Provinces like Sind, North West Frontier Province and Orissa?

(b) Is it a fact that Sind which was being granted only Rs. 4 crores on a population basis is now seeking Rs. 20 crores and Bengal is also demanding a subvention of Rs. 20 crores?

The Honourable Mr. Liaquat Ali Khan: (a) I would invite the Honourable Member's attention to the Government of India (Distribution of Revenues) Order, 1936, and to the Government of India (Distribution of Revenues) (Amendment) Order, 1944.

(b) Sind did not get a subvention of rupees four crores. The Government of India have not received a request for twenty crores from the Sind Government. The Bengal Government recently asked for a special subsidy of rupees nine crores but this request has not been accepted.

REALISATION OF MONEY FROM DISPOSALS

1347. *Mr. Manu Subedar: (a) Will the Honourable the Finance Member please state what is the amount of disposals by value for each month after the Disposals Department was set up?

(b) What has happened to the funds realised by such disposal and whether credit has been taken for them in current expenses, or on suspense account, or under any capital heads?

(c) What moneys, if any, have been given to His Majesty's Government and to the Government of the United States of America, in respect of any realisations or disposals made by the machinery set up by the Government of India?

(d) Have any such moneys been so transferred?

(e) Have they been accounted for by book entry or by actual transfer of value and, if so, in what form and to what extent?

The Honourable Mr. Liaquat Ali Khan: (a) A statement giving the necessary information is placed on the table of the House.

(b) The funds realised are credited in the first instance to a Suspense Head. The amounts so credited are dealt with as follows:—

- (1) *Defence Department Surpluses.*—The amount realised is almost entirely credited to His Majesty's Government as these surpluses mostly belong to His Majesty's Government.
- (2) *American Surpluses.*—The amount realised up to 50 million dollars exclusive of customs duty is to be credited to Indian Revenues. Any realisations over 50 million dollars will be divided in moieties between the Governments of United States of America and India.

(c) and (d). The amount credited to His Majesty's Government in the accounts of 1945-46 on account of Defence Department surpluses is Rs. 10-66 crores. The adjustment for the year 1946-47 has not yet been made.

The realisations expected from the sale of American surpluses in 1946-47 are less than 50 million dollars, and therefore the question of payment to the Government of United States of America does not arise in that year.

(e) So far as credits to His Majesty's Government are concerned, they are taken in reduction of the recoverable War expenditure. As regards the credit to be afforded to the Government of the United States of America, the question of payment has not so far arisen.

Statement of sales of surpluses concluded each month since the Directorate General of Disposals was set up

Month	Value in rupees
	Rs.
December 1945	1,37,83,000
January 1946	1,73,95,000
February 1946	1,57,53,000
March 1946	2,64,44,000
April 1946	2,91,25,000
May 1946	4,19,02,000
June 1946	3,68,53,000
July 1946	11,80,99,000
August 1946	9,49,63,000
September 1946	7,07,63,000
October 1946	4,47,80,000
November 1946	5,31,31,000
December 1946	16,76,08,000
January 1947	5,83,21,000
February 1947	7,15,46,000
Total	86,34,76,000
Less estimated customs duty to be deducted from sale price	14,00,00,000
Net	72,34,76,000

NOTE.—The above figures represent the value of the sales concluded. The figures of realisations are smaller for various reasons, such as payment by instalments, subsequent cancellation of sales in certain cases and the time lag in adjustment in accounts.

NATIONAL WAR ACADEMY

1348. *Mr. Ahmed E. H. Jaffer: (a) Will the Secretary of the Defence Department be pleased to state which place has been finally selected for establishing the proposed National War Academy?

(b) When will the Academy start functioning?

Mr. G. S. Bhalja: (a) The Governor-General in Council decided on the 20th February 1946 that the National War Academy should be established at Kharakwasala near Poona. The question is, however, under the consideration of the present Government as a part of the recommendations of the National War Academy Committee's Report.

(b) It is not possible to say when the Academy will start functioning as the National War Academy Committee's Report has not yet been finally adopted.

PERMANENT EMPLOYMENT OF ORDNANCE OFFICERS (CIVILIANS) IN THE I.A. O. C.

1349. *Mr. Tamizuddin Khan: (a) With reference to the answer given to my starred question No. 318 asked on the 14th February, 1947, regarding Ordnance Officers (Civilians) in the I.A.O.C. will the Secretary of the Defence Department be pleased to state if Government have come to a decision as to whether "any of the war-time ordnance officers (civilians) can be absorbed in the permanent cadre of other Branches of the Service"?

(b) In case the answer is in the negative, is it a fact that a number of these officers have been served with notices of termination of their services and that such notices are still being served?

(c) If so, what is the number of officers who have been served with such notices?

(d) What is the reason for serving such notices before the question of absorbing these officers in the permanent cadre of other branches of the service has been decided?

Mr. G. S. Bhalja: (a) No final decision can be reached till the size of the future Armed Forces is settled, but it is intended to retain as many as possible. There seems no possibility of the number exceeding one hundred.

(b) A number of notices have been served.

(c) One hundred and thirty-five.

(d) Because there is no work for them and it is unlikely that they could be absorbed in the Ordnance and other Branches.

DEPUTY ASSISTANT CONTROLLERS IN THE SUPPLY ACCOUNTS OFFICE

1350. *Mr. Tamizuddin Khan: (a) Will the Honourable the Finance Member please state the number of Deputy Assistant Controllers community-wise in the following Supply Accounts Office: (i) Chief Controller of Supply Accounts, Delhi, and (ii) Controllers of Supply Accounts, Delhi, Calcutta and Bombay?

(b) How many Deputy Assistant Controllers in the above offices are holding (i) permanent appointments, (ii) temporary appointments, and (iii) appointments on deputation from other offices?

(c) Are Government aware that the Supply Accounts Offices are being re-organised as a result of which a number of Deputy Assistant Controllers from the offices mentioned in part (a) above are being reverted to their substantive appointments?

(d) If the answer to part (c) above be in the affirmative, what is the number of such officers belonging to different communities and offices as mentioned in part (a) above?

(e) What steps Government propose to take to maintain the 25 per cent. ratio of Muslims in the grade of Deputy Assistant Controllers on the re-organisation of the Supply Accounts Offices?

The Honourable Mr. Liaquat Ali Khan: (a) to (d). I place a statement on the table of the House giving the necessary information.

(e) No direct recruitment is made to the cadre of Deputy Assistant Controllers and therefore the reservation rules do not apply.

STATEMENT

(1)	Number of Deputy Assistant Controllers Community-wise as on 24th March 1947				Reversions of Deputy Assistant Controllers to lower posts scheduled to take place with reduction in work		
	Hindu (2)	Scheduled Caste (3)	Muslim (4)	Total (5)	Hindu (6)	Muslim (7)	Scheduled Caste (8)
Chief Controller of Supply Accounts, New Delhi.	1	1	...	2	...	...	...
Controller of Supply Accounts, New Delhi.	9	...	2	11	1	...	...
Controller of Supply Accounts, Calcutta.	7	...	...	7	2	...	...
Controller of Supply Accounts, Bombay.	5	...	...	5	1	...	...

Note 1.—[Reference part (b) of the question].

All the officers shown in the above statement hold temporary appointments. (Ten of them are on deputation from other offices). There are only two permanent posts of Deputy Assistant Controllers in the Chief Controller of Supply Accounts Organisation and the substantive holders are now holding temporarily posts outside the cadre of Deputy Assistant Controller.

Note 2.—(Reference parts (c) and (d) of the question).

The Deputy Assistant Controllers who will revert to lower posts consequent on the reduction of work are shown community-wise in columns (6) to (8) of the above statements. No one will revert to his parent office.

IMPROPER FOOD ARRANGEMENTS FOR GIRL STUDENTS OF THE COLLEGE OF NURSING, NEW DELHI

1351. *Shri D. P. Karmarkar: Will the Secretary of the Health Department please state:

(a) whether it is a fact that a few of the girl students of the College of Nursing, New Delhi, have left the College on account of the improper arrangement for food in the hostel;

(b) whether Government are aware that the girl students of the B.Sc. Honours class are given food which is unwholesome in quality and insufficient in quantity;

(c) whether the management cannot provide better food within the monetary allotment fixed per student per month; and

(d) whether Government propose to take necessary steps to remove the grievances of the students who have come from all parts of India, are away from their parents and have no means to supplement their food?

Mr. S. H. Y. Oulnam: (a) and (b). No.

(c) The question does not arise. The food given to the students is wholesome and is reported to be adequate from the point of view of nutrition.

(d) No complaints have been received. The Government is, however, anxious that the food in this institution should be fully adequate and satisfactory and the possibility of improving it will be considered.

APPOINTMENT OF RESERVE INSPECTORS OF U. P. POLICE AS DEPUTY SUPERINTENDENTS OF POLICE IN AJMER-MERWARA

1352. *Pandit Mukut Bihari Lal Bhargava: (a) Will the Honourable the Home Member be pleased to state whether Government are aware that all the four permanent posts of Deputy Superintendents of Police in Ajmer-Merwara (two in the Railway Police and two in the District Police) are held by officers imported from the United Provinces, mostly Reserve Inspectors promoted as Officiating Deputy Superintendents in the United Provinces?

(b) Why are capable and experienced Inspectors in Ajmer-Merwara with brilliant records of criminal and investigation work not promoted to these posts?

The Honourable Sardar Vallabhbhai Patel: (a) and (b). All the four permanent posts of Deputy Superintendents of Police in Ajmer-Merwara are at present borne on the Provincial Police cadre of the United Provinces, and appointments to these posts can only be made from among Police officers belonging to that Province. Three of the present incumbents are promoted Reserve Inspectors. Measures are under consideration for improving the position.

USE OF SERVICE AIRCRAFT FOR PRIVATE TRIP TO AGRA BY AIR OFFICER COMMANDING-IN-CHIEF

1353. *Sardar Surjit Singh Majithia: (a) Will the Secretary of the Defence Department be pleased to state whether Government have made enquiries regarding the trip of the Air Officer Commanding-in-Chief to Agra with certain civilians in a service aircraft on Saturday the 8th March, 1947?

(b) If the answer be in the affirmative, what is the action taken thereon?

Mr. G. S. Bhalja: (a) Yes, Sir.

(b) There was an Air Display at Agra on the 8th March 1947 and the Air Officer Commanding-in-Chief of the Air Forces in India flew to Agra on that day in the normal course of his duties.

PROPOSED TAKING AWAY OF 'TEMPEST' AIRCRAFT BY THE ROYAL AIR FORCE

1354. *Sardar Surjit Singh Majithia: Will the Secretary of the Defence Department be pleased to state if it is a fact that the Royal Air Force propose to take away 'Tempest Aircraft' and leave behind 'Spit Fires' for the Royal Indian Air Force when they leave India? If so, why?

Mr. G. S. Bhalja: The answer to the first part of the question is in the negative. The latter part does not therefore arise.

CAUSES OF RELIEVING OF COMMAND BY AIR MARSHAL SIR RODERICK CARR

1355. *Sardar Surjit Singh Majithia: Will the Secretary of the Defence Department be pleased to give the causes for relieving Air Marshal Sir Roderick Carr of his command at such short notice?

Mr. G. S. Bhalja: Air Marshal Carr was permitted to resign his post as he had already reached the retiring age for his rank and was due for relief in due course.

INDIANISATION OF INDIAN ARMY VETERINARY CORPS

1356. *Mr. Mohammad M. Killeidar: (a) Will the Secretary of the Defence Department please state what steps Government have taken to Indianize the Indian Army Veterinary Corps?

(b) How many Indian qualified Veterinary Graduates have been given Commissions in the said Corps?

(c) What is the number of English Veterinary Surgeons in the said Corps?

(d) Why is the distinction between Viceroy's Commissioned and King's Commissioned Veterinary Officers maintained when duties of both Officers are the same?

Mr. G. S. Bhalja: (a) The Indian Army Veterinary Corps is already one hundred per cent. Indian.

(b) Two hundred and thirty-three Emergency Commissions were granted to Indian graduates and licentiates from the various Veterinary Colleges.

(c) As already stated, there are no British Officers in the Corps, but a few senior officers of the R. A. V. C. are attached until nationalization can be completed.

(d) The duties of the ICO and the VCO are not the same. The former has to shoulder greater responsibility and has to be better qualified.

SELECTION OF MANAGERS AND OFFICERS FOR ARMY DAIRIES AND POULTRY FARMS

1357. *Mr. Mohammad M. Killeidar: Will the Secretary of the Defence Department please state:

(a) what procedure is followed in selecting the managers and officers for Army Dairies and Poultry Farms;

(b) what qualifications are laid down for such jobs; and

(c) whether such posts are advertised before the selection of personnel?

Mr. G. S. Bhalja: (a) The selection of Managers for Army Dairies and Poultry Farms is made from Supervisors within the Department. In Military Poultry Farms, however, due to rapid war-time expansion a certain number of temporary Managers were recruited by direct entry. Future appointments will follow the normal procedure of selection from Supervisors within the Department.

As regards Officers, who are of two types, civil and military, the former are selected from amongst the senior subordinate civilians in the Military Farms Department and the latter are obtained from officers serving in the Armed Forces.

(b) For Managers long and satisfactory service combined with Departmental technical training is necessary. Importance is also attached to academic qualifications though experience in each grade is regarded as essential in the interests of efficiency.

As regards Military Officers, a good military career prior to joining the Department is required and all entrants have to attend a Departmental Technical Course of Instruction in order to obtain a satisfactory standard before being accepted for service in the Department.

Civilian Officers promoted from the managerial grade are required to attend and qualify at the same Departmental Technical Course of Instruction as laid down for Military Officers, before being confirmed in their appointments.

(c) The posts of Manager for Civilian Officers are not advertised but those of Military Officers are advertised in Indian Army Orders.

DAMAGE TO GRIFFON ENGINES OF THE AIR FORCE IMPORTED AT DRIGH ROAD, KARACHI

1358. *Sardar Surjit Singh Maithia: (a) Will the Secretary of the Defence Department be pleased to state whether it is a fact that new Griffon Engines recently unpacked at Drigh Road, Karachi, were found to have rusted?

(b) Were these engines meant for the R.I.A.F.?

(c) Have they been paid for by the Government of India?

Mr. G. S. Bhalja: (a) Yes, Sir. Certain parts of these engines have been found to be corroded.

(b) These engines were sent to India by H. M. G. for use by both the R. A. F. and the R. I. A. F.

(c) No, Sir.

COMPOSITION OF SELECTION BOARDS FOR THE ARMED SERVICES.

1359. *Mr. Shah Nazar Hasan: (a) Will the Secretary of the Defence Department please lay on the table of the House a statement giving the composition of all selection Boards set up for all the three Armed Services after the termination of the war?

(b) Is it a fact that no Muslim was appointed as president or vice-president of these Boards? If so, why?

(c) Do Government propose to further Indianize the personnel of these Boards?

(d) If the answer to part (c) above be in the affirmative, do Government propose to give an assurance that Muslims will be fully represented on these Boards?

Mr. G. S. Bhalja: (a) I would refer the Honourable Member to my answer to part (c) of starred question No. 1340.

(b) No, Sir.

(c) Yes, Sir.

(d) Yes, Sir. There is no discrimination against Muslims or any other community.

GRANT OF COMMISSIONS AFTER THE TERMINATION OF WAR TO DIFFERENT COMMUNITIES

1360. *Mr. Shah Nazar Hasan: (a) Will the Secretary of the Defence Department please give the number of Hindus, Muslims and Sikhs who have been interviewed after the termination of the War for permanent and temporary Commissions and how many of them from each community have been granted such commissions?

Mr. G. S. Bhalja: I lay a Statement on the table of the House.

STATEMENT

(a) *Emergency (Temporary) Commissions from 16th August 1945 to 31st December 1946*

Community	Army		Navy		R. I. A. F.		Total	
	Inter-viewed	Accept-able	Inter-viewed	Accept-able	Inter-viewed	Accept-able	Inter-viewed	Accept-able
Hindus . . .	1439	175	37	1	1055	218	2531	394
Muslims . . .	687	121	26	...	375	84	1088	205
Sikhs . . .	411	77	7	...	158	26	576	103
Totals . . .	2537	373	70	1	1588	328	4195	702

(b) *Indian Emergency Commissioned Officers for permanent Commissions from 16th August 1945 to 31st March 1947.*

Community	Army		Navy		R. I. A. F.		Total	
	Inter-viewed	Accept-ed	Inter-viewed	Accept-ed	Inter-viewed	Accept-ed	Inter-viewed	Accept-ed
Hindus . . .	1273	584	220	46	168	91	1661	721
Muslims . . .	941	427	118	19	96	62	1155	508
Sikhs . . .	676	310	42	12	79	40	797	362
Total . . .	2890	1321	380	77	343	193	3613	1591

(c) *Indian Civilians & Servicemen for permanent Commissions through the I. M. A. from August 1945 to 31st March 1947.*

Community	Interviewed	Acceptable
Hindus	2198	283
Muslims	858	115
Sikhs	462	83
Total	3518	481

(d) *Indian Civilians for R. I. N. permanent Commissions through the F. P. S. O. from 15th August 1945 to 31st March 1947.*

Community	Interviewed	Acceptable
Hindus	19	9
Muslims	2	2
Sikhs	3	1
Total	24	12

NOTES.

(i) By the 31st December 1946 interviewing for Emergency Commissions had ceased.

(ii) There has been no interviewing of civilians for permanent commissions in the R.I.A.F.

(iii) With reference to the statement at (a), the total number of Emergency Commissions granted during the period mentioned is as follows :

R. I. N.	13
I. A.	891
R. I. A. F.	211

Many of these were interviewed before the termination of the war and several were granted commissions direct and did not appear before Selection Boards.

(iv) Where the word "acceptable" has been used, the candidates are required to undergo training before they can be granted commissions. Exact figures of those, out of this number, who obtained commissions are not readily available. As regards the total number of permanent and short service commissions so far granted please see the statement laid on the table of the House in answer to starred question No. 1340.

(v) 792 short service commissions have so far been granted. These are made up of 561 commissions granted to IECOs. and 231 granted to cadets from O. T. S. who joined the Training Schools prior to August 1946 with a view to qualifying for Emergency Commissions. The 561 IECOs. were selected by Directors of the various Arms and Services after considering the past records of the applicants. The 231 cadets were found suitable for short service commissions as they had successfully completed their pre-commission training and had been recommended by the Commandant of the School. This method of selection was stopped from the 7th January 1947 and future selections will be ade by the Services Selection Boards except for specialised appointments such as those in the JAG's Department.

PAY OF OFFICERS APPOINTED UNDER THE 'SMALL SAVINGS SCHEME'

1361. *Shri Mohan Lal Saksena: (a) Will the Honourable the Finance Member be pleased to state whether it is a fact that the Officers appointed under the 'Small Savings Scheme' are drawing a fixed pay for the last three years and that no increments have been allowed to them?

(b) Is it a fact that no scales of pay have been prescribed for these Officers and if so, when do Government propose to sanction regular grades for them, taking into consideration the existing high cost of living?

The Honourable Mr. Liaquat Ali Khan: (a) A number of officers and staff engaged in connection with the Small Savings Scheme are on fixed pay.

(b) The scheme was originally sanctioned for the duration of the war and has been subsequently extended from year to year and there was no occasion to fix scales of pay for all posts. The question of sanctioning suitable grades of pay is under active consideration.

CONTROL OVER METROPOLITAN BISHOPS AND CLERGY IN INDIA

1362. *Sri R. Venkatasubba Reddiar: (a) Will the Secretary of the Defence Department please state what control Government have over the Metropolitan Bishops and other Clergy of India with a view to safeguard the promulgation of the Authorised Articles of Faith and forms of worship as sanctioned by the British Parliament in the Book of Common Prayer and to prevent the abuse of Ecclesiastical Powers against the legitimate religious feelings of Indian Christians as Communicant Members of the Church of India, Burma and Ceylon?

(b) Are Government aware that Prayer Books containing unauthorised doctrines and forms of worship commonly known as "Pak Qurbani" have been introduced and acted upon in Churches under the Archdeaconry of Delhi in spite of the protests and opposition of the Indian Christians professing the Faith of Evangelical Church of England?

Mr. G. S. Bhalja: (a) The Government of India have no jurisdiction over the Christian or other Churches in spiritual matters. All laymen are fully represented on the various Church Councils and can safeguard their rights through them.

(b) The Government have no information to this effect. The result of further enquiries is awaited, and will be placed on the table of the House as soon as it is received.

NON-MARTIAL COMMUNITIES IN THE INDIAN ARMY

1363. *Chaudhri Sri Chand: (a) Will the Secretary of the Defence Department please state the number of soldiers of non-martial communities in the Indian Army?

(b) What is the number of officers, Commissioned and Non-Commissioned, of non-martial communities in the fighting Forces?

Mr. G. S. Bhalja: (a) and (b). As recruitment to the Armed Forces is made from all classes and all Provinces and as there is no longer any distinction made between classes as "martial" and "non-martial", the figures required by the Honourable Member are not available.

OFFICERS AND CLERKS BELONGING TO URBAN AND RURAL AREAS EMPLOYED IN THE EDUCATION DEPARTMENT

1364. *Chaudhri Sri Chand: Will the Honourable Member for Education please state:

(a) the number of officials and clerks in his Department and attached offices at Delhi; and

(b) the number of officials and clerks belonging to the (i) urban, and (ii) rural areas?

The Honourable Maulana Abul Kalam Azad: (a) The information asked for is as follows:

	Number of Officers employed	Number of Clerks employed
Department of Education	36	271
Office of the Director General of Archaeology at Delhi	10	30

(b) Presumably the Honourable Member would like to know whether the employees at the time of their appointment came from an Urban or a Rural area. If so, the time and labour involved in the collection of this information will not be commensurate with the result to be achieved.

OFFICERS AND CLERKS BELONGING TO URBAN AND RURAL AREAS EMPLOYED IN THE FINANCE DEPARTMENT

1365. *Chaudhri Sri Chand: Will the Honourable the Finance Member please state:

(a) the number of officials and clerks in his Department and attached offices at Delhi; and

(b) the number of officials and clerks belonging to the (i) urban, and (ii) rural areas?

The Honourable Mr. Liaquat Ali Khan: (a) and (b). A statement showing the information asked for is laid on the table of the House

STATEMENT

(1)	(2) Total actual strength on 31st March 1947		(3) Numbers belonging to Urban and rural areas					
	Gazetted Officers incl. Gazetted Supdts.	Inferior	Gazetted Officers		Ministerial		Inferior	
			Rural	Urban	Rural	Urban	Rural	Urban
(i) Finance Deptt. (O. R.)	74	245	15	48	129	222	227	18
(ii) Revenue Division	19	81	4	14	47	57	80	1
(iii) Directorate of Inspection.	4	14	1	3	7	9	14	...
(iv) J. I. A. (Food)	3	12	1	2	7	16	11	1
(v) F. A. Delhi Province	1	5		1	2	5	5	...
(vi) Central Pay Commission.	4	18	...	4	6	12	18	...
(vii) Commodities Prices Board.	5	9	...	4	2	9	7	2
Total	110	384	21	76	200	331	362	22

NOTE: Figures in column (3) do not include 9 European Officers, 2 Officers on deputation and one Officer on leave and 10 members of the ministerial staff on leave. One officer has no settled and cannot, therefore, be classified.

VILLAGE PROGRAMMES BY THE ALL-INDIA RADIO

1366. *Chaudhri Sri Chand: (a) Will the Honourable Member for Information and Broadcasting please state whether Government propose to consider the desirability of consulting some men from villages who know the tastes and customs of the villagers in drawing up programmes for the rural population? If not, why not?

(b) Is there any well-educated villager on the staff of the Radio Department, Delhi?

The Honourable Sardar Vallabhbhai Patel: (a) It has been decided to appoint an Advisory Committee consisting of public men from villages to advise on all matters concerning Rural Programmes.

(b) Yes.

REVISION OF INTERNATIONAL SANITARY CONVENTION RELATING TO HAJ PILGRIM TRAFFIC

1367. *Mr. Mohammad M. Killeddar: (a) Will the Secretary of the Health Department please state whether Government are aware that an international conference to consider and if necessary to revise the International Sanitary Convention is to be held in Egypt in the near future?

(b) Are Government aware that among other things, this conference will consider and probably take important decisions for revising the special part of the International Sanitary Convention, relating to Haj Pilgrim Traffic, which forms an important part of the whole Convention?

(c) Are Government aware of the importance of this item and of the desire of the Muslims for completely revising the various out-of-date and unnecessary regulations under this part?

(d) Are Government taking steps, and if so, what, to instruct their representatives, to represent these views strongly, with a view to get the necessary changes made in the Convention?

(e) Do Government propose to consider the advisability of associating with this delegation, either as members, or as advisers, some non-official persons, such as those who are actually and actively connected with the carriage of pilgrim Traffic?

Mr. S. H. Y. Oulsnam: (a) and (b). The Interim Commission of the World Health Organisation has set up a sub-committee of experts to consider the revision of the Pilgrimage clauses of the International Sanitary Convention, 1926, as amended in 1938. The sub-committee will consist of six experts (including one from India) selected by the Executive Secretary and Chairman of the Interim Commission in agreement with the governments concerned. It will meet in Egypt from the 16th April, 1947. The sub-committee will not arrive at decisions but will submit its report to the Interim Commission.

(c) Yes.

(d) Suitable instructions will be given to the Indian representative on the sub-committee.

(e) No. The sub-committee consists of experts in quarantine matters who will carry out a preliminary review and the Government do not propose to include non-official persons in the delegation. The question of inclusion of non-official persons in the delegation to the Interim Commission or the World Health Assembly will be considered when the matter comes up before the Commission or Assembly.

UNSTARRED QUESTIONS AND ANSWERS

PROMOTION OF MUSLIMS PERMANENTLY TO THE INDIAN AUDIT AND ACCOUNTS SERVICE

108. Mr. Yusuf Abdoola Haroon: (a) Will the Honourable the Finance Member please state the number of persons who have been promoted permanently to the Indian Audit and Accounts Service during the last ten years, stating the number of Muslims and non-Muslims separately?

(b) If the number of Muslims is less than 25 per cent. of the total number of men promoted, what steps are proposed to be taken to make up this shortage?

(c) Do Government propose to review the cases of all Muslims in the temporary Emergency Cadre of the Indian Audit and Accounts Service and promote to the Indian Audit and Accounts Service those who fulfil the necessary conditions?

The Honourable Mr. Liaquat Ali Khan: (a) Twenty two officers were promoted permanently to the Indian Audit and Accounts Service during the last ten years. Twenty of these officers were non-Muslims and two were Muslims.

(b) Promotion to the permanent cadre of the Indian Audit and Accounts Service is made entirely by selection on merit. Orders regarding communal representation apply to vacancies filled by direct recruitment only and not to those filled by promotion. The question of promoting Muslims to the Indian Audit and Accounts Service upto a specified percentage does not therefore arise.

(c) The claims of Muslims for the promotion in question are already carefully considered, and no necessity arises for a special review.

DE-REQUISITIONING OF THE OPEN GROUND NEAR GOVERNMENT WOMEN'S TRAINING COLLEGE IN NASIK

109. Sardar N. G. Vinchoorkar: Will the Secretary of the Defence Department please state:

(a) whether Government are having control over the open grounds close to the Government Women's Training College on the Agra Road in Nasik, and are using the same as a staging camp for military purposes;

(b) if the reply to part (a) be in the affirmative, whether Government are aware that this causes much inconvenience to the civilian population in depriving them of the use of the same; and

(c) whether Government propose to hand over these grounds for the use of the civilian population by de-requisitioning the same?

Mr. G. S. Bhalja: (a) and (b). The staging camp was released on the 22nd March 1947.

(c) Does not arise.

ELECTION TO STANDING COMMITTEE FOR EXTERNAL AFFAIRS DEPARTMENT

Mr. President: I have to inform the Assembly that upto 12 Noon on Thursday, the 27th March, 1947, the time fixed for receiving nominations for the Standing Committee for the Department of External Affairs, twelve nominations were received. Subsequently two members withdrew their candidature. As the number of remaining candidates is equal to the number of vacancies, I

declare the following members to be duly elected to the Committee for the financial year 1947-48:

- (1) Sreejut Rohini Kumar Choudhury, (2) Pandit Balkrishna Sharma, (3) Professor N. G. Ranga, (4) Seth Sukhdev, (5) Khan Abdul Ghani Khan, (6) Khan Bahadur Sharbat Khan, (7) Mr. C. P. Lawson, (8) Mr. Abdur Rahman Siddiqi, (9) Mohammad Amir Ahmad, and (10) Khwaja Nazimuddin.

ELECTION TO STANDING COMMITTEE ON COMMONWEALTH RELATIONS.

Mr. President: I have to inform the Assembly that upto 12 Noon on Thursday, the 27th March, 1947, the time fixed for receiving nominations for the Standing Committee on Commonwealth Relations, eleven nominations were received. Subsequently one member withdrew his candidature. As the number of remaining candidates is equal to the number of vacancies, I declare the following members to be duly elected to the Committee for the financial year, 1947-48:—

- (1) Mr. N. M. Joshi, (2) Seth Sheodass Daga, (3) Babu Ram Narayan Singh, (4) Mr. Nagendranath Mukhopadhyay, (5) Seth Govind Dass, (6) Sri S. T. Adityan, (7) Captain G. T. B. Harvey, (8) Mr. Ahmed E. H. Jaffer, (9) Mr. Muhammad Nauman, and (10) Khwaja Nazimuddin.

ELECTION TO CENTRAL COMMITTEE OF TUBERCULOSIS ASSOCIATION OF INDIA

Mr. President: I have to inform the Assembly that upto 12 Noon on Tuesday, the 1st April, 1947, the time fixed for receiving nominations for the Central Committee of the Tuberculosis Association of India, one nomination was received. As there is only one candidate for the vacancy, I declare Pandit Mukut Bihari Lal Bhargava to be duly elected to the Committee.

ELECTION TO GOVERNING BODY OF INDIAN RESEARCH FUND ASSOCIATION.

Mr. President: I have to inform the Assembly that upto 12 Noon on Tuesday, the 1st April, 1947, the time fixed for receiving nominations for the Governing Body of the Indian Research Fund Association, one nomination was received. As there is only one candidate for the vacancy, I declare Shri Sri Prakasa to be duly elected to the Body.

DELHI SIKH GURDWARAS AND RELIGIOUS ENDOWMENT BILL.

Sardar Mangal Singh (East Punjab: Sikh): Sir, before I move the motion standing in my name, I would like to point out that the first name on the agenda paper is that of the Honourable Sardar Vallabhbhai Patel. With your permission I want to substitute the name of the Honourable Mr. Jogendra Nath Mandal for the name of Sardar Vallabhbhai Patel, as I now understand that he is in charge of this Bill. I had thought that probably the Home Member was in charge of this Bill, but I was informed that the Law Member is in charge of this Bill. I will, therefore, substitute his name.

Sir, I move:

“That the following Members of the Legislative Assembly be nominated to serve on the Joint Committee to consider and report on the Bill to provide for the better administration of the Sikh Gurdwaras in the Delhi Province and their properties wheresoever situate:—

[Sardar Mangal Singh]

- (1) The Honourable Mr. Jogendra Nath Mandal,
- (2) Sirdar Jogendra Singh,
- (3) Sardar Surjit Singh Majithia,
- (4) Sardar Bahadur Captain Sardar Harender Singh,
- (5) Syed Ghulam Bhik Nairang,
- (6) Sardar Sampuran Singh, and
- (7) the Mover."

Sir, on the 14th February I moved in this House that a Joint Committee of both the Houses be appointed to consider this Bill. I understand that the other House has appointed 7 Members to serve on this Joint Committee. I propose today that 7 Members of the Assembly be appointed to serve on that Joint Committee. The Bill which I propose is not a controversial measure. It is only to legalise the existing position. It was circulated for eliciting public opinion thereon and I am glad that all the sections of the Sikh community are in favour of this Bill. I will not, therefore, take much time of the House but only ask the House to appoint 7 Members whose names I have mentioned to serve on this Joint Committee. Sir, I move.

Mr. President: Motion moved:

"That the following Members of the Legislative Assembly be nominated to serve on the Joint Committee to consider and report on the Bill to provide for the better administration of the Sikh *Gurdwaras* in the Delhi Province and their properties wheresoever situate:

- (1) The Honourable Mr. Jogendra Nath Mandal,
- (2) Sirdar Jogendra Singh,
- (3) Sardar Surjit Singh Majithia,
- (4) Sardar Bahadur Captain Sardar Harender Singh,
- (5) Syed Ghulam Bhik Nairang,
- (6) Sardar Sampuran Singh, and
- (7) the Mover."

The Honourable Mr. Jogendra Nath Mandal (Law Member): Sir, on behalf of the Government I want to say that Government have no objection to the motion.

Mr. President: The question is:

"That the following Members of the Legislative Assembly be nominated to serve on the Joint Committee to consider and report on the Bill to provide for the better administration of the Sikh *Gurdwaras* in the Delhi Province and their properties wheresoever situate:

- (1) The Honourable Mr. Jogendra Nath Mandal,
- (2) Sirdar Jogendra Singh,
- (3) Sardar Surjit Singh Majithia,
- (4) Sardar Bahadur Captain Sardar Harender Singh,
- (5) Syed Ghulam Bhik Nairang,
- (6) Sardar Sampuran Singh, and
- (7) the Mover."

The motion was adopted.

INDIAN RAILWAYS (AMENDMENT) BILL

Mr. S. Guruswami (Nominated Non-Official): Sir, I beg to move:

"That the Bill further to amend the Indian Railways Act, 1890, be referred to a Select Committee consisting of Mr. Muhammad Nauman, Khan Mohammad Yamin Khan, Mr. M. A. E. Hirtzel, Sri M. Ananthasayanam Ayyangar, Shri Satya Narayan Sinha, Pandit Thakur Das Bhargava, Sri Bhagirathi Mahapatra, Mr. N. M. Joshi, Miss Maniben Kara, Sree Satyapriya Banerjee and the Mover, with instructions to report on or before the 31st July, 1947, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The Member for the Railways Board and the Law Member are *ex-officio* Members of the Select Committee and I have not specifically mentioned their names.

In making this motion I submit that the Bill is a very important one and will play a large part, if accepted, in maintaining industrial peace on railways. The Indian Railways Act has a Chapter which provides for regulating working hours and weekly periods of rest. The standards laid down in the Indian Railways Act are far below those already recognised by the Central Government for other class of industrial workers, such as, the factory workers. In 1919 when the Washington Hours Convention was drafted and ratified by the Government of India, no distinction was sought to be imposed for railway workers and other class of workers. Since then, for several years Government did not take any legislative action to implement the Washington convention and Geneva weekly rest convention. Subsequently in 1930, they introduced legislation giving them power to regulate working hours and weekly periods of rest for certain classes of workers but there were several exemptions provided under the provisions of the amended Act. In fact until very recently most of the Class I railways, let alone other Railways, did not have even some measure of protection under the Act. Whatever be the past history, in 1945, the Railwaymen's Federation demanded reduction of working hours and a strong agitation which was set on foot forced the attention of the Government of India and they agreed to an adjudicator being appointed to go into the question. Nearly a year has passed and before the end of this month, it is understood the adjudicator's report will be available for the Government. What I wish to submit is this that the question of working hours and regulation of weekly periods of rest are questions of broad policy which need not await the Adjudicator's report. I respectfully submit it cannot be considered to have any bearing in determining the policy. It is purely a question of policy. The railwaymen should not be denied the benefit of reduction in regard to working hours, and weekly periods of rest which the Factory workers have already achieved. I may state in this connection that when the Factories Act provided for 60 hours week, there were already in force regulations providing for 48 hours week in certain workshops. There were also in existence several rosters of duty which provided for 42 hours, 48 hours and 46 hours a week, and it is high time that legislation is introduced and enforced to see that the working hours are reduced in a manner so as not to be behind those accepted for other class of industrial workers. Again certain exceptions are enforced under the present legislation which enables the Government to exclude supervisory staff, running, staff and any class of workers whom they do not want to be included under protection under the present Act. The Bill that I have introduced seeks to remove that power of exemption or exclusion of any category of workers. Secondly it also provides for the abolition of distinction between so-called essentially intermittent workers and continuous workers. Essentially intermittent workers under the present legislation have to work for 84 hours a week and with no regular weekly rest periods. That is unsocial and it is high time that legislature recognises the necessity for granting to essential intermittent workers periodic rest and also the abolition of the distinction that is made between so-called essentially intermittent workers and the continuous workers. The number of those who are classified essentially intermittent constitutes nearly two lakhs and these are the workers who not only have to work daily long hours but who are also deprived of the benefit of weekly rest day. Not only that, there is no limit in the existing legislation for limitation of daily working hours for any class of railway workers, whether they are continuous workers or essentially intermittent workers and this Bill seeks to provide for a ceiling limit by the day. There is also provision for increasing the rate of overtime on a par with those recognised in certain other undertakings. I do not want to make a long speech for the simple reason that the principles contained in this Bill are fundamental and they

[Mr. S. Guruswami]

should have been recognised long ago. I am in fact 27 or 28 years behind in undertaking this legislation. In the circumstances I would request the Railway Member to be pleased to accept my Motion for reference to a Select committee.

Mr. President: Motion moved:

"That the Bill further to amend the Indian Railways Act, 1890, be referred to a Select Committee consisting of Mr. Muhammad Nauman, Khan Mohammad Yamin Khan, Mr. M. A. F. Hirtzel, Sri M. Ananthasayanam Ayyangar, Shri Satya Narayan Sinha, Pandit Thakur Das Bhargava, Sri Bhagirathi Mahapatra, Mr. N. M. Joshi, Miss Maniben Kara, Sree Satyapriya Banerjee, the Honourable the Law Member, the Honourable the Member for Railways and the Mover, with instructions to report on or before the 31st July, 1947, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The Honourable Dr. John Matthai (Member for Railways and Transport):

All I wish to say is that as the Honourable Mover himself has said many of the matters which are covered by this reference are at present under examination by an adjudicator whose award is yet to be published. It is possible also that recommendations which have a bearing on these questions and on connected matters may be included in the report of the Pay Commission which is also yet to be published. My personal feeling therefore is that probably the Select Committee would find its work rendered easier and probably would be placed in a better position to make satisfactory recommendations on these questions of this reference was postponed till the adjudicator's award and the Pay Commission report were published. I am not raising this as an objection and certainly not as a decisive objection. I am only putting toward a suggestion to the Honourable Mover, but if he feels that he would like to go forward with this Motion and have it referred to the Select Committee, as far as the Government are concerned, they would not stand in the way.

Mr. President: The position requires to be clarified in one respect. What does the Honourable Member mean by postponement? Does he mean that the Motion need not be pursued at present or that the time for submission of the Select committee report may be extended?

The Honourable Dr. John Matthai: My idea is that this Motion for reference to Select Committee might be made at a later stage.

Mr. N. M. Joshi (Nominated: Non-official): Mr. President, if I understand correctly the desire of the Honourable Member it is this, that he does not want the Motion for reference to Select Committee to be passed today. If that is so, I suggest that the House should not accede to his desire and the House should pass this Motion. At the same time, it appears from his speech that although his desire is that the Motion may not be passed today, he is not going to oppose it. I am glad that he at least is not prepared to oppose this Motion, although his own personal view is that the Motion need not be taken up today. I feel that it is high time and perhaps we are too late in bringing forward a Bill of this kind for the reduction of hours of work of Indian railway men. The hours of work of Indian railwaymen have been much longer for a very long time than the hours of work in factories and in mines. Somehow the railway authorities in India seem to be more reactionary than the Labour Department of the Government of India. I do not know why that should be as both the departments are departments of the Government of India. But that is a fact, that while the hours of work in other industries were reduced the hours of work for railwaymen have not been reduced for a very long time. For a very long time the attitude of the Government of India on this question has been very unsatisfactory. A convention was passed in 1919 regarding hours of work under which Indian railways were given certain concessions regarding these hours as compared to other workers. India herself was given a concession as compared to other parts of the world. The Railway Department took a very long

time to give effect to that convention although it was accepted by the Government of India; and when they tried to give effect to it they did it in such slow degrees that even today it has not been given full effect to, although it is now more than 25 years since that convention was passed and agreed to by the Government of India. That is the attitude of our railway authorities and the legislature should not sanction this attitude. It is high time that the hours of work are reduced for railwaymen not only in the interest of the railwaymen themselves but in the interest of the travelling public. There are countries where in the interest of the safety of the travelling public the hours of work for railwaymen are restricted, but that does not find a place in our legislation. So I feel that in the interest of railwaymen as well as of the travelling public the hours of work should be restricted and reduced to a degree not less than what is proposed in this Bill. I also appeal to the Railway Member to give up his attitude of benevolent neutrality and to adopt an attitude of sympathetic support to the motion.

I will make one suggestion in this connection. I suggest that the Select Committee should meet very early so that if the next session starts sometime before the 31st July the report may be presented on the first day the Assembly meets and it may become law during the session if approved by the other House. Sir, I support the motion and I hope the House will accept it.

Sri M. Ananthasayanam Ayyangar (Madras Ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, as early as 1919 the Washington Convention laid down that the hours of work should be reduced and that was followed up by the Geneva Convention in 1922 or 1923. Both these conventions were accepted by the Government of India but as yet no action has been taken in accordance with those conventions. In 1929 a Bill was introduced; the Railway Act was amended so as to empower the Governor General in Council to frame rules regarding the hours of work and the period of rest for railway servants. Even then by an Act the hours of work were not limited. Now by this Bill an amendment is sought to be made so as to apply the provisions of this Act not only to intermittent but to other workers also. I think this measure has been long overdue. I was expecting that the Adjudicator would send in his award a long time ago just as we members of the Standing Finance Committee expected that the Pay Commission would send in their recommendations quite early. The Pay Commission have apparently sent in some few recommendations which Government are considering. But this matter regarding the hours of work and other conditions of service have been referred not to the Pay Commission but to the Adjudicator whose award has not yet been received. This motion for reference to Select Committee does not stand in the way of the Adjudicator's award being obtained by Government. I would ask the Railway Member not to ask that this motion should be dropped for the present. On the other hand it may be so amended as to extend the period of submission of the report till the next session, so that in the interval the adjudicator's award may be received and action may be suggested on the lines of that award. I feel that even if this motion is not made today Government have to make a similar motion or introduce a Bill to amend the Railways Act. So this Bill of Mr. Guruswami may be taken advantage of, and I would suggest that the period of submission of the report of the Select Committee may be extended by two or three months so that it may be presented at the next session. May I know when my Honourable friend the Railway Member expects to get the Adjudicator's award?

The Honourable Dr. John Matthai: It is difficult for me to say at this stage because I have received no definite information yet as to the possible date when the award may be expected, and I do not like to commit myself to any date. But if I may say so, I think it is a good suggestion that my Honourable friend Mr. Ayyangar has made that in case the Honourable Member wishes to have

[Dr. John Matthai]

this reference made to the Select Committee straightaway it would be better from the point of view of everybody concerned if there was a slight extension of the time indicated for the presentation of the report.

Sri M. Ananthasayanam Ayyangar: I therefore suggest that the time may be extended till the 25th August or the last week of August if that is acceptable to my Honourable friend.

An Honourable Member: Make it the first day of the next session.

Sri M. Ananthasayanam Ayyangar: if by that time we do not receive the Adjudicator's award and Government have no time to consider them and place their own proposals before the House, we can come to the Assembly and ask for further time if necessary. I therefore suggest that instead of 31st July the work of the Committee may be finished by the first day of the next session.

Mr. N. M. Joshi: Sir, although the motion contains the words "31st July" it really means the first day of the next session if the session starts after that date, because if no session is held the report cannot be presented before the 31st July.

Sri M. Ananthasayanam Ayyangar: The difficulty is that if the Adjudicator's award is not there and we are not able to come to any conclusion before the 31st July, will the Committee have jurisdiction to sit after that date in case the session is held late in August?

Mr. N. M. Joshi: I think there is absolutely no risk of the Adjudicator's award being delayed longer than April or May, and there is no fear of its not being ready in July.

Sri M. Ananthasayanam Ayyangar: We need not stick to the 31st July; we can make it the first day of the next session.

Mr. N. M. Joshi: To that we do not object because the report cannot be presented before that date.

Mr. President: The session may be earlier than the 31st July or later. That will be making the position uncertain; but I may point out that the wording of the motion is that the report is to be presented "on or before" the 31st July. So even if the date is extended it is competent for the Committee to submit the report earlier if the House meets earlier. If the extension is therefore permitted I do not see any harm in it. But that is my personal view.

Mr. N. M. Joshi: If the report could be submitted on the 1st day of the Session, that would avoid delay.

The Honourable Dr. John Matthai: With reference to the remark made by my Honourable friend, Mr. Joshi, regarding the possibility of delay in the publication of this report, I want to make Government's position absolutely clear in the matter that we shall make every effort to expedite the publication of the Adjudicator's Award and when it is published all the necessary materials connected with it will be placed before the Select Committee at the earliest possible date.

Sri M. Ananthasayanam Ayyangar: I move therefore, with your permission, that the date for the presentation of the report may be changed from the 31st of July 1947, to the 1st day of the next Session of the Assembly.

Mr. President: That will be very uncertain and indefinite. Let a specific date be put.

Sri M. Ananthasayanam Ayyangar: Very well, Sir. Let it be 31st of August. As it will be 'on or before the 31st August 1947' the report can be presented earlier if the Session is held before that date. Sir, I move:

"That in place of the date '31st July 1947', '31st August, 1947,' be substituted."

I do agree with my Honourable friend that the workers in the Railways must be paid well; they must be given sufficient rest and proper work must be taken. There is emphasis regarding the lessening of the hours of work and also paying larger amounts by way of wages by my three Honourable friends who are sitting on my right—Mr. Joshi, Mr. Guruswami and our Honourable Lady friend Miss Maniben Kara—but no one tries to emphasise that the workers should at least return 50 per cent. to the railway administration in return for all the amenities provided for them and for the reduction of hours of work and higher wages. I find on very reliable information that people are working halfheartedly on repairs to engines which are sent to the workshops with the result that repairs are not carried out in time. Workers do not show much enthusiasm. If this Bill is passed and the Pay Commission gives them higher wages, then I am sure these people will have greater incentive to work much better, but my Honourable friends—the accredited leaders of labour—must also go to them and tell them that they should do their bit. We always compare the hours work and conditions of labour as they are prevailing in England, America and other advanced countries, but we do not ask our worker to put forward at least 1/3rd of the amount of work that a European worker does. We are told that the European worker does his duty properly whereas our people make every kind of excuse to get out of work. Of course they come to their work in time and get out at 5, but they are inclined to waste time. They go on strike somewhere or other or they sit down and don't do their work properly. Certainly all of us agree that the hours of work should be lessened and their pay and wages should also be increased, and if that is done it will be our duty to see that proper work is turned out by the labourers.

Mr. President: Amendment moved:

"That in place of the date '31st July 1947', '31st August, 1947,' be substituted."

Mr. S. Guruswami: With regard to the date, my difficulty is this: I have had personal discussions with the Adjudicator and he told me that he expected to submit his report before the end of this month. Keeping that in view I fixed the date as 31st of July 1947 so that there will be three months for the Select Committee to consider the Award and present their report. There is no reason to extend the date, but if the Honourable Member can give us an assurance that he would take steps to expedite the work and finish it even earlier than this date, I would have no objection to accepting this amendment.

The Honourable Dr. John Matthai: That is so.

Mr. President: The question is:

"That in place of the date '31st July 1947', '31st August, 1947,' be substituted."

The motion was adopted.

Mr. President: Now I will put the amended motion: The question is:

"That the Bill further to amend the Indian Railways Act, 1890, be referred to a Select Committee consisting of Mr. Muhammad Nauman, Khan Mohammad Yamin Khan, Mr. M. A. F. Hirtzel, Sri M. Ananthasayanam Ayyangar, Sri Satya Narayan Sinha, Pandit Thakur Das Bhargava, Sri Bhagirathi Mahapatra, Mr. N. M. Joshi, Miss Maniben Kara, Sree Satyapriya Banerjee, the Honourable the Law Member, the Honourable the Member for Railways and the Mover, with instructions to report on or before the 31st July, 1947, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL

Pundit Thakur Das Bhargava (Ambala Division: Non-Muhammadan): Sir, I beg to move:

"That the Bill further to amend the Child Marriage Restraint Act, 1929, be referred to a Select Committee consisting of Chaudhury Sri Chand, Lala Deshbandhu Gupta, Dr. G. V. Deshmukh, Mr. Sasanka Sekhar Sanyal, Sri Bhagirathi Mahapatra, Sri R. Venkatasubba Reddiar, Khwaja Nazimuddin, Khan Muhammad Yamin Khan, Syed Ghulam Bhik Nairang, Capt. G. T. B. Harvey, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, I have great pain in making this motion before you because I feel that in a matter of such importance as goes to the root of our national prosperity and the physical welfare of the human material, there is gnawing of the worm of the custom of child marriage which ceaseth not and is veritably eating into the very vitals of the nation.

The enormity of the evil is not fully realized and it is therefore that we did not have a similar motion earlier in this House in regard to such a measure. Those who observe things with their eyes open in the country, who move among the backward classes, who have, something to do with the depressed classes and move about the villages, realize the effect of child marriage, and I think that most of the Members of this House will bear me out that the evil is so great that it should have been remedied long before and not allowed to continue.

In 1924 the first Bill about Child Marriage was thought about. Sanction was sought and given but it was not availed of. On the 1st February 1927, Mr. H. Sarda brought in a Bill in respect of Hindu Marriages known as the Hindu Child Marriage Bill. The bill was referred to a Select Committee, and the Committee reported that it should be a general Bill and should not be confined to Hindus alone. I remember the thrilling speeches of Pandit Madan Mohan Malaviya and Mr. Jinnah in the House and those of us who were then in the House, must have realized how the House was moved and ultimately the face of the Bill was changed and it was made applicable to the whole of India. It was republished and then again referred to a Select Committee. The Bill was before the House when a Committee was appointed (by the Government) known as the Age of Consent Committee. There was another Bill regarding the Age of Consent brought by Dr. Gaur and that Bill and the Bill relating to Child Marriage Restraint Act were both in a manner given over to the Age of Consent Committee to investigate. The reference was only in respect of the Age of Consent but incidentally the question of the restraint of child marriages did arise. The Age of Consent Committee consisted, of Sir Maropant Joshi, the Chairman, and nine other Members, four of whom belonged to this House. The Congress Party, the Independent Party and the other Parties in the House sent their representatives to this Committee and they submitted a unanimous report to the Government. While these Bills were on, the report of the Committee was submitted to the Government and it was on the basis of the information contained in that report that the hands of the House were strengthened and the House succeeded in passing the Bill known as the Child Marriage Restraint Act of 1929. The provisions of this Bill in regard to punishment were, I should say, very lenient. As a matter of fact, the truth is this that the Government of that day was not alive to national interests. It only appointed a Committee. It supported the Bill but it was not keen that the provisions of the Bill should be worked out in the right spirit. Many amendments were moved, some of them by me, I was also a member of the Age of Consent Committee, and we devoted a good length of time about ten months, when all the twenty-four hours we were thinking of this evil

and the remedies to remove it. I stated in the House that the Government was not serious in the matter. It only wanted to save its face. It brought the Bill in, got it passed, and did not take any further steps so far as the promulgator of this Act and the removal of the evil were concerned. In those days it was considered that the passage of the Bill would electrify the atmosphere of the country and there would be a great change, and the Committee recommended that the punishment to be provided for infraction of the main provisions of the Sarda Bill would be simple imprisonment for a month or fine, and in respect of certain other infractious fine only. We then thought that as the Bill was new and the country was far behind the times, and the conscience of the community had not been fully awakened, the Bill as it then existed was sufficient to meet the case. But after these 18 years, after seeing what the effect of this Act was in the country, I am distinctly of the opinion and I believe that the majority of the Members of this House will agree with me that this Bill is practically a dead measure so far as the backward communities and the rural areas are concerned. I admit there has been some change and the rise in the marriageable age in certain communities and in urban areas, the reasons being very many others and this Act may also have contributed towards the rise in age. But so far as the backward areas are concerned, so far as the rural areas, and the depressed classes are concerned, the marriages among them go on as merrily as before. In rich families where they want to have a marriage which is prohibited by the Sarda Act, if there is a conviction then a sum of Rs. 50 to Rs. 100 is added to the expenses of the marriage.

The Government did not do anything in the matter. On the contrary, in the first year of the enactment of this provision, the local Government sent circulars to District Magistrates in regard to the infractions of the Sarda Act to the effect that the punishment of imprisonment should not be awarded except in flagrant cases. The truth of the matter is that many people do not realise what the real and extensive evil effects of child marriage are. It is not only that the Members of the Legislature do not fully realize them: nay, in the country the very big people, including our biggest leaders did not realize the situation, and every person who does not go about and find out the real facts, cannot fully realize the evil consequences of child marriage. Before this Bill was enacted, before the report of the Age of Consent Committee was submitted to the Government, Pandit Moti Lal and Mr. M. A. Jinnah themselves did not know how extensive the evil was. When they read the report they were converted to the view that the enactment of such a measure was a first necessity. With your permission I will just read out what Mr. Jinnah said at the time.

The motion before the House was that the consideration of the Bill be postponed. Mr. Lahiri Chaudhury is not in the House just now. It was his motion. Mr. Jinnah said:

"Sir, the first and foremost question that I put to myself as a Member of this Legislature is whether child marriage is an evil in this country or not; is a crying evil or not? Is it human that thousands and millions of girls should be married at a very tender age which must sap their womanhood? Sir, I do not think, whatever may be the controversy on this point, on the plea of humanity, that there is a single Member in this House who can contemplate with equanimity and would not deplore and condemn the grave evil and the inhuman practices which are daily taking place in this country. Is it or is it not a fact? Sir, I entirely agree with my friend Mr. Shah Nawaz. . . ."

Mr. Shah Nawaz was one of the members of the Committee and he spoke in favour of the Bill.

Similarly Pandit Motilal Nehru expressed himself while speaking on the Bill. As a matter of fact he himself did not know that the evil was so extensive as was found by the Committee. He said that he was amused at the Bill of Mr. Sarda and thought that Mr. Sarda was seeking cheap

[Pandit Thakur Das Bhargava]

notoriety when he brought in this Bill but after seeing the report of the Committee he was convinced that the evil was very extensive.

I do not want to go into the evidence that was produced before the committee to prove that the evil was very extensive at that time. Sir, if you would kindly look at page 95 of the report you will come to the same conclusion, and I need not press too much the point of the enormity of the evil. On page 219 the figures are given and according to those figures 50 per cent. of the girls were according to the Census of 1921 married before they completed their 15th year. Under the age of five years in 1920 there were 2,18,463 girls who were married. I have since seen the figures of 1931 Census and you will be astonished to know that the figures now stand as follows:

Age 0 to 1—44,082 girls were married and there were 1,515 widows at the age of 1 in addition.

Age 1 to 2—63,954 girls were married and there were 1,785 widows in addition.

Taking total age from the age of 0 to 5 there were 8,01,852 girls married and 30,880 were widows in addition. Unfortunately I have not got the statistics for 1941, as in the census of 1941 these tables about the civil condition of the population are not given. I am sorry therefore that I cannot supply the figures for 1941 to the House. But it will appear that as stated in paragraph 221 of the report of the Committee the percentage of girls who were married and were below 15 at the time of census of 1921 was 42.2 per cent. and roughly 50 per cent. This report was published in 1929 and I have calculated the figures for 1931 and it would appear that the difference between 1921 and 1931 is not much. After all, as mentioned in paragraph 221 of the report, it is a matter of conjecture, as the figures in the census report are not very exact. It was found that at least 50 per cent. of the girls were married before the age of 15. After making some calculations I have come to the conclusion that in 1931 the difference was not very great: it might have been a difference of 3 to 5 per cent. Within those ten years the rise in age is not appreciable. If you look at the figures of 1901 and 1911 you will be driven to the conclusion that the belief of those who believe in social reform is a pure myth. It has been proved that in some cases, for instance in the Karnal district in Ambala Division there were more married girls in 1911 than there were in 1901, after giving due allowance to the increase in population. Therefore I submit that so far as the question of social reform is concerned I think the social reformers are absolutely impotent to meet this evil. The first social reform meeting took place in 1880 and up till to date, during the last 118 years, social reformers have not succeeded. I am sure that unless and until the House takes courage in both hands and unmindful of public agitation passes the necessary measures, the House will not be doing justice to the people who look to it for guidance and support. My submission is that this is a very urgent matter. The urgency may not be realised today but it will be realised by those who come after us and they will curse us for our inactivity. The Honourable the Finance Member talked of social justice. There may be social justice in economic matters but in social matters to bring about social justice you have to protect the child from those who do not realise its interest, who out of ignorance, custom, and superstitious belief in the Scriptures do not see the evils they bring about through child marriage. Sir, you have heard complaints from Mr. Ananthasayanam Ayyangar that our labourers do not work well. The labourers are the children of child mothers, who were married at the age of 5 or 10. Have they got the spine to compete with those who live in Europe and whose marriages take place late? As a matter of fact this evil is so corroding, and so soul-killing that if any person does not realise the enormity

of the evil I cannot help him to realise it. My difficulty is this. Those who live in the cities realise that there is a general rise in the age, though the rise may be limited to their own communities. The matter of fact is that speaking of backward communities and classes, there is no rise in the age. I have got a *syce* with me who has got 7 or 8 children. The youngest daughter which is in the arms of its mother has been married and above that there is a girl of four who has also been married. (Interruption by Mr. Krishna Chandra Sharma). If we had influence of the right sort over these people and we would have been doing our duty this would have become a thing of the past. I do not think we have been doing our duty. We have only been doing something about political swaraj. What is the meaning of political swaraj without getting social swaraj. If you want to do your duty towards your daughters and sisters, you must concede that it is their right that they should be saved from the harm which is incident to child marriage.

Sir, may I just refer you to section 87 of the Indian Penal Code, and you will see that it provides that no person can deal injury to any person below the age of 18 even with his consent. But what happens in child marriage? The child wife has to pass her days in great misery. If maternity occurs at the age of 14 or 15 the child born of such a mother is undeveloped, puny and grovels in life. And the child mother also after sometime passes away from this world in great misery. May I in this connection refer you, Sir, to page 102 of the report, where the system of *Sati* is compared to the system of child marriage and where the Committee state:

"Let us compare the case of *Sati* which was prevented by legislation with the case of early maternity. *Satis* were few and far between. They compelled attention by the enormity of the evil in individual cases by the intense agony of the burning widow and the terrible shock they gave to human feelings. After all they were cases only of individual suffering. The agony ended with the martyr and the incident had some compensation in the martyr being almost defied as an ideal Hindu "*Pativrata*". In the case of maternity, however, the evil is widespread and affects such a large number of women both amongst Hindus and Muslims as to necessitate redress. It is so extensive as to affect the whole frame work of society. After going through the ordeal if a woman survives to the age of 30 she is in many cases an old woman, almost a shadow of her former self. Her life is a long and lingering misery and she is a sacrifice at the altar of custom. The evil is so insidious in all the manifold aspects of social life that people have ceased to think of its shocking effects on the entire social fabric. In the case of *Sati*, the utter hideousness of the incident shocked the conscience; in this case the familiarity of the evil blinds us to its ghastly results. If legislation was justified for preventing *sati*, there is ample justification for legislation to prevent early maternity, both on the grounds of humanity and in furtherance of social justice."

I am sorry that I had had to read such a long thing before the House. I did not mean to do it but the idea was expressed in such clear language that I could not resist the temptation of reading it.

As I was submitting, what is the real point of truth which I want to remove? I have got another Bill setting forth this evil which is to be referred to Select Committee today. The real trouble is, I am ashamed

to say, that the evil of pre-puberty consummations is prevalent in some parts of India. Before I was appointed to this Committee I never believed that anything like this could exist in our country. But after hearing all the evidence and roaming all over the country I came to understand it and I and the other Members of the Committee were fired with fervour to see that this Bill is passed and steps are taken by the Government to see that this evil is checked. No inhabitant of Bengal is likely to admit that among Hindus, and Mussalmans as well, pre-puberty consummation is extensive. I know they simply will deny it. But we have got evidence of a very reliable character and any person who wants to examine the facts can examine the material published by the Government.

Even now a very large number of people who are married at the age of, say, 1 to 10 or 1 to 14 have pre-puberty consummations so much so that in

[Pundit Thakur Das Bhargava.]

Bengal even the age of menstruation has lessened comparatively. In Bengal the girls menstruate at the age of 8, 9 and 10; in the rest of India they don't menstruate so early. I maintain it is on account of child marriage.

I was referring in this connection to the findings of the Age of Consent Committee. At page 76 of their Report they say:

"The evidence leaves no doubt that the evil of early consummation is very widely prevalent in the Province and among large classes who are following it according to custom and tradition and that the predominance of public opinion, both Hindu and Muslim, is distinctly in favour of an advance by a Law of Marriage and an increase in the age of Consent."

Similarly on page 67 they say:

"The evidence before the Committee confirms the inference which may be drawn from the census figures. It is admitted on all hands that the practice of early marriage is widely prevalent throughout Bengal. Witnesses may praise or condemn the system and may refer to the advantages or disadvantages accruing from it, but the fundamental fact is undeniable, nor is it questioned, that early consummation almost inevitably follows early marriage amongst both Hindus and Muslims."

Leaving this question of pre-puberty consummation aside—post-puberty consummation immediately after puberty is almost universal in the country. As soon as a girl is married she goes to her husband, and before three years after puberty are complete before she attains the age of 15 or 16, she cohabits with her husband. These are the two evils which are eating into the vitals of society. Number one is pre-puberty consummation—and the 2nd is early consummation after puberty. According to medical evidence which is irrefragable and which cannot be challenged, sixteen is the proper age for maternity and fifteen the least age when cohabitation should be allowed. Before this age if cohabitation is allowed I must submit that it is always detrimental to the girl and detrimental to the progeny.

If we have to meet this evil—and the evil is undeniable and any person challenging it has only to see the Report of the Age of Consent Committee to be convinced—the only remedy which I can conceive of is a proper administration of this Marriage Law. It is very difficult to secure convictions under Section 375 of the Indian Penal Code. All that we can do is that we must insist that the marriages do not take place before the prescribed age. If that is secured, if no marriage takes place before 14, then one year will be taken ordinarily in the *Gona* ceremony and other things so that before the age of 15 the girl will not go to her husband and before 16 there will be no chances of maternity.

I do not want to go into the causes of infantile mortality on account of early consummation. The infantile mortality is very high in India and at the same time in the case of mothers it has its evil effects. Members of the House who are so minded can read the Report. I would very respectfully urge all of them that they have only to read this book to be convinced that there is a very good case for taking action in this matter. I am convinced that if this Act is not amended in the manner in which I am suggesting it should be amended, this evil cannot be rectified. Nobody brings up any case at present. If you will kindly see the figures of these cases you will be convinced that there are very few cases in courts, and in some cases when there is an enemy who wants to harass the party in that case alone a case is brought. When the Bill was on I proposed an amendment and wanted to put upon the Government the responsibility of working this law and seeing that an officer is appointed who will be charged with the duty of bringing such cases to the court. But the Government did not accept the amendment.

So far as this Act is concerned the amendment might be made in Sections 3, 4, 5 and 6 of the Act. At present a boy of the age of eighteen is liable under the law if he marries a girl of less than 14 years and he can be given a punishment of Rs. 1,000 fine. It so happens that boys of eighteen are not

so fond of marriage, but behind the purdah it is the parents who force their will and order the boy to get married and he is helpless. He cannot say anything and withstand the parents. After all, if there is a fine of Rs. 1,000 the parents will pay it. I want that the court may be invested with powers of sending a boy like him to 15 days imprisonment. It is not obligatory that the court should do so. But the boy can say very well to his parents 'I will be imprisoned, not you'. I submit, Sir, that this provision may be amended and the courts may be given the power of sending a man in that position to imprisonment also. According to the provisions of the Indian Penal Code, a boy or a child under 7 is not liable; after 12 he is liable in law; and at the age of 18, especially if he is a college student or is in another walk of life he fully realises the implications of the offence. There is no reason that we should not be able to just help him in this matter if he wants to resist.

In regard to the provisions of clauses 3, 4 and 5 the amendment in the Bill seeks that the court be not given any discretion in the matter but in every case of infringement of the provisions of the Sarda Act the court will be forced to give the sentence of imprisonment which may extend not only to one month but to three months. This is the amendment I want to propose. If the people have a fear and if it goes about in the villages and all around that this Act has been amended and offenders will be imprisoned, it will have a salutary effect on the parents of both the parties and the Brahman and the Qazi. This can give happiness to no one that people who solemnize marriages in their houses and who want to be jubilant on such occasions should be brought to courts. That is not my purpose. I myself realise that this will be hard to a certain extent but I feel that it is only a penal provision which can have the effect of checking such a corrosive evil as child marriage. We have failed in persuading them. This is the only way in which we can see that they are compelled not to marry a boy below the age of 18 and a girl below the age of 14. I know that advanced opinion in the country thinks that 14 is not a proper age but I have not touched the age purposely. I only want that in the matter of punishment the provisions should be changed. The House has already passed this Bill. I want that the House may amend it in such a manner that this Act may be effective. What is the use of having a measure which will only add Rs. 50 to the expenses of marriage and bring the legislature into contempt, which passes a measure which is inoperative and at which people can laugh. I submit, if I may say so, that all the measures taken together which we have passed this session will not be half so effective as this measure in the attainment of social swaraj and in improving the health and physique of the people. I therefore move that this Bill be sent to the Select Committee so that it may make its report by the next session when we may be able to pass this Bill.

Mr. President: Motion moved:

"That the Bill further to amend the Child Marriage Restraint Act, 1929, be referred to a Select Committee consisting of Chaudhury Sri Chand, Lala Deshbandhu Gupta, Dr. G. V. Deshmukh, Mr. Sasanka Sekhar Sanyal, Sri Bhagirathi Mahapatra, Sri R. Venkatasubha Reddiar, Khwaja Nazimuddin, Khan Muhammad Yamin Khan, Syed Ghulam Bhik Nairang, Capt. G. T. B. Harvey, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sri M. Ananthasayanam Ayyangar (Madras Ceded Districts and Chittoor: Non-Muhammadan Rural): May I suggest that the name of Mrs. Swaminadhan be added to the list of members?

Mr. President: Amendment moved:

"That the name of Mrs. Ammu Swaminadhan be added to the list of members of the Select Committee."

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Mr. G. V. Mavalankar) in the Chair.

Mr. P. B. Gole (Berar: Non-Muhammadian): Mr. President, Sir, I move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st August, 1947."

I have read the Bill and also the Statement of Objects and Reasons. I have also heard with attention the speech of my Honourable friend Pundit Thakur Das Bhargava. I must confess that I am not convinced by the arguments advanced for bringing in this Bill at this stage. It is a well-known fact that Pundit Thakur Das Bhargava was one of the Members of the Select Committee when the Child Marriage Restraint Act was passed. I have read his minute of dissent which he wrote at the time and I find that he was not so very anxious to make it as penal as he is anxious to make it penal today. It is really surprising why my Honourable friend Pandit Thakur Das Bhargava is led to make this enactment more penal. It may be conceded on all hands that on account of the provincial autonomy the laws regarding marriage are in the concurrent list, so that the provinces also have the right to make their own laws regarding marriages. If that is so, we ought to know what is the opinion of the provinces regarding this measure. Of course, the Central Legislature is not, as the law stands at present, prevented from enacting measures and you know, Sir, that during the last year and a half some measures affecting marriages have been passed through. But this is a measure which does not really affect the objects for which the Child Marriage Act was passed. It only makes the punishment more severe. It requires that the parent who contracts a child marriage of his minor son or daughter, the minor boy who contracts his marriage and the priest who officiates at the marriage should all be punished with imprisonment and fine. So, my friend wants that an occasion for joy should be turned into an occasion for going to jail, and all these persons—the husband, the wife, the parents and the official priest and perhaps the other guardians who may have assembled at the marriage—as soon as they celebrate or solemnise the marriage should be locked into jail. I do not think that that should be the law at all. The reason is that it is quite likely that sometimes a child marriage may take place, child marriage in the sense that the girl may require one month to complete her 14th year and the boy may require a month or so to complete his 18th year. Now, such a couple being suitable, the marriage is performed, and for the performance of this marriage because they have not completed the statutory age, the boy and the girl, the parents as well as the officiating priest should all be locked up in the jail. That is what it amounts to. My Honourable friend Pundit Thakur Das Bhargava has referred to child marriages, which were contracted between children of one or two or four years of age, and he referred also to certain passages from the Inquiry Committee which was constituted by the past Government under the chairmanship of Sir Moropant Joshi.

Now, Sir, much water has flown under the bridge since that time and I was very anxious to know what has happened during the last 17 years since the Bill was passed. I may give you an incident which happened when this Child Marriage Restraint Act came into force on 1st April 1931. I know from my locality, ignorant people from the rural areas contracted marriages of their little children, so much so that there were record marriages of children in that year. But since that time, I am not aware of what is happening in other provinces, but in C. P. and Berar there are no child marriages in the sense in which my Honourable friend wants us to believe. I mean to say there are now no child marriages between the ages of 4 to 8. It is quite likely that sometimes marriages between the ages of 13 to 17 or before the completion of the statutory period take place. But that is also regarded as an offence. Am I to understand from the speech of my Honourable friend that where such marriages take place, there should be compulsory imprisonment. I do not really understand why this should be so. What is going to happen if one month earlier than the

statutory period marriage takes place. You know that in England the marriageable age for a girl is 12, whereas in India the marriageable age for a girl is 14.

Mr. Geoffrey W. Tyson (Bengal: European): No, it is 16.

Mr. P. B. Gole: I am not giving my own opinion. Here it is recorded in the Minute of Dissent of Pandit Madan Mohan Malaviya when the Child Marriage Restraint Bill was on the anvil. He says:

"In view of the fact that marriage is a religious sacrament among Hindus, in view of the belief which has prevailed on the question of the age for marriage among them for a very long time, to make the marriage above age of 12 and below the age of 14 punishable by law will be a violent interference with Hindu religion which I consider it my duty strongly to oppose. We must not forget that even in England the legal marriageable age for girls is 12 years."

Pundit Thakur Das Bhargava: What is the law in New South Wales?

Mr. P. B. Gole: I am not conversant with law in other places. What is the state of things in England. There the marriageable age for girls seems to be 12. Whether they get married at that age or not is a different matter. Among Hindus, marriage is one thing and consummation is entirely different. You must not confuse the two. For consummation a separate ceremony takes place. Consummation takes place only after puberty. Whatever be the date of marriage, consummation never takes place before the attainment of puberty. But whatever that may be, it is neither here nor there. Now, the law is in force that you cannot marry a girl before 14 nor a boy before he completes the age of 18. We accept the law as it is. I have no quarrel with it today. I do not understand why Pundit Thakur Das Bhargava is now asking for deterrent punishment for performance of child marriage. The breach, if at all would be a technical breach. I want to know what is the reason. I do not know about the state of things in the Punjab. From the records I have not been able to find whether in the Punjab marriages take place between boys and girls below the statutory period. What are the magistrates doing there? What are the relations of boys and girls doing there? So far as C. P. and Berar are concerned, barring of course some rural areas, where we do not know what take place, no marriages take place below the ages of 14 and 18 for girls and boys respectively. If the state of things in the Punjab is different, then it is up to my Honourable friend to have legislation passed in the Punjab legislature. Here we are not supposed to have recourse to such legislation. Let us examine this a little. I will take up clause 5. Here it is said, for the word 'one month' the words 'three months' be substituted; and for the words 'or with fine' the words 'and shall also be liable to fine' be substituted. If you refer to section 6 of the Child Marriage Restraint Act, the provisions are very stringent. It says:

"Where a minor contracts a child marriage, any person having charge of the minor whether as parent or guardian or in any other capacity lawfully or unlawfully, who does any act to promote the marriage or permits it being solemnised or negligently fails to prevent the marriage from being solemnised shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to one thousand rupees or with both, provided that no woman shall be punishable with imprisonment. Further for the purpose of this section it shall be presumed unless and until the contrary is proved that where a minor has contracted a child marriage, the person having charge of such a minor has negligently failed to prevent the marriage from being solemnised."

You will see that this section is so stringent that a presumption is drawn. I will give you an example. Suppose a boy aged 17 or 18 elopes with a girl of 14 or 13 years of age and gets himself married to the girl outside. I know certain cases of such marriages. Now it will be presumed that the parents, because the bride and bridegroom are minors in the eye of law, failed to prevent the solemnisation of such marriage and the parents are liable to punishment unless they prove to the contrary. The parents have failed to prevent the solemnisation of marriage and so they should be punished. In addition to this presumption of guilt my friend wants that the father should not only be fined but should be sent to jail for three months. It is very strange. If a boy is over 16, then according to Hindu *shastras*, he is considered a major and the

[Mr. P. B. Gole.]

father has no control over him. So according to Hindu law a boy becomes major in his 16th year. Therefore if a boy of 17 elopes with a girl of 13 or 15 and marries her, he being a minor the father will be punished. It should be presumed that the father failed to prevent this marriage. But not satisfied with this stringent measure my Honourable friend Pandit Bhargava wants the father to be locked up in jail. I see no justification for this. I am surprised that my Honourable friend should want to make the law more penal and more deterrent. In his own minute of dissent on that Bill he stated thus:

"I think that the provisions relating to the throwing of the burden of proving want of knowledge on the person who officiates at the marriage is not justifiable. This burden should always be on the prosecution. I am also not in agreement with the provision that the parent or guardian should prove that he did not fail negligently to prevent child marriage of his son or daughter or ward."

At that time my Honourable friend was not even willing to incorporate sub-section (2) of section 6; he did not want a presumption to be drawn against parents. I am surprised that today he wants parents to be penalised for failing to prevent the marriage of a minor. Why has my friend changed his views now? While he was speaking I tried to find out whether he could quote any instances which led him to change his views so as to make the law more deterrent. But I did not find even one case quoted by him where a boy went without the father's permission and got married, on account of which negligence should be attributed to the father. I do not know why he wants the father to be imprisoned for three months.

So far as the amendment of sections 4 and 5 are concerned, my Honourable friend wants that the girl and boy who are married, perhaps without any fault on their part, should also remain in jail and not escape with a fine. I do not know whether my friend will allow the marriage festivities to be finished before he sends them to jail. This is really unnecessary because our society has not deteriorated so much since the passing of the Act. This seems to be due to a strange enthusiasm for social reform. I know that whenever a social reformer gets up and says that women's rights are in danger, my Honourable friend Mrs. Swaminadhan will get up and say that their rights are really in danger and so the law should be passed. But we must dispassionately consider whether it is absolutely necessary to enact such legislation. My Honourable friend gave certain cases from the Punjab and specially from the Ambala district from which he comes. Such instances do not happen in other provinces. Of course there may be rich people who do this and can afford to pay a fine of a thousand rupees; but among the poor and middle classes and the rural population the law is strictly obeyed. Before the 1st April 1931 when the Act came into force child marriages surely took place in my province, but after that no case has come to my knowledge of a deliberate breach of this law. And cases of marriages taking place among children of 4 and 5 have certainly never happened. Therefore society has very much advanced and so we must know what the public opinion is about this and it would be risky for us to refer this to Select Committee and legislate forthwith. I therefore move for circulation of this Bill.

Another point is this. Pandit Bhargava referred to the ignorance of the people, to their religious sentiments and the customs that prevail among certain classes of society, on account of which people sometimes celebrate child marriages. I have only to say that after all customs are there and according to the Sanskrit verse they prevail even over law. Therefore sometimes these customs may be observed, but for that I do not think people should be punished in the way that my Honourable friend wants. As regards ignorance, although everybody is supposed to know the law still I am not in favour of punishing ignorant men. Punishment is proper only where there is a deliberate breach of the law; otherwise I feel that no deterrent punishment is called for. Therefore the reasons given by my Honourable friend for making the law more stringent do not appear to me to be valid.

My Honourable friend quoted certain passages from the evidence given before the Committee in 1927-28. What has happened after that? Am I to understand that society has not advanced? Is there anything to show that in the rural areas ignorant people do these things in spite of this law? If child marriages are increasing what are the guardians of law doing? If they do not administer the law properly it is the fault of these administrators and not of society. But I at least have not heard of any such cases. Still in view of the fact that we do not know what is happening in the provinces and we also want to know the effect of the Child Marriage Act and whether it has acted as a deterrent I submit that we should ascertain the views of the public; otherwise it will not be proper to proceed with this Bill. I therefore move for its circulation.

Mr. President: Amendment moved:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st August, 1947."

Shrimati Ammu Swaminadhan (Madras City: Non-Muhammadan Urban):
Sir, When I saw that the Honourable Member Mr. Bhargava was going to ask for leave to introduce this Bill I had not thought of speaking on this subject at all. I did not think there was the least bit of necessity to speak on this question today, but after hearing the arguments put forward against this Bill by my Honourable friend Mr. Gole I am afraid I must say a few words.

I do not pretend to understand the arguments that have been put forward by him, and I do not understand at all why he is opposing this measure which has been suggested by my Honourable friend, Mr. Bhargava. Surely we had accepted the principle of Child Marriage Restraint Act long ago and

3 P.M. Mr. Bhargava was only trying to amend it so as to make the law a little more strict than it is now. In several places, especially in rural areas, in this country I have heard it said that this law has been more or less a dead letter. All the same I do say that it has done a great deal of good in the country and it has stopped a great many child marriages.

One of the arguments that was put forward by Mr. Gole was that in case there was only one month more for the boy to become fully 18 years old and one month more for the girl to become 14 years old where was the necessity of punishing them if they get married just one month earlier.

Mr. P. B. Gole: With imprisonment.

Shrimati Ammu Swaminadhan: Yes, with imprisonment, or whatever other punishment is provided in the Bill. But surely if they want to avoid punishment they can wait for one month more. The boy is not going to break off the marriage because he has to wait for one month more, nor would the girl if she has to wait for a month. If there is no auspicious day after a month, surely they can wait for 2 or 3 months more before the marriage need be performed.

There was another argument which he put forward; with regard to elopement. I wish he would quote how many elopements take place in this country and how many boys of 18 or less run away with girls of 13 or a little more. I do not believe that such elopements take place here at all and that they need be afraid of punishment. But surely those who elope are fully aware of their offence against the society and against the parents of the girls and they are prepared for whatever punishment there may be.

He also put forward a plea that when they are married before they attain the age of puberty, the actual marriage is not celebrated until sometimes later. May I know if the boy dies before the second marriage or nuptials is celebrated whether the girl becomes a widow or not? If it is only an engagement, if it is only a betrothal, why should a girl of 12 or 13 or younger, be a widow? Physically it may not do her any harm, but in society she is treated as a

[Shrimati Ammu Swaminadhan]

widow and before this Bill came into existence we had had hundreds and thousands of child widows in this country. There were so many Widows Homes opened for child widows, and we women were very ashamed at the name given to these homes—Widows Homes. We have never heard about Widowers Homes. Why should girls be put in a different category altogether for no fault of their own? Why should a girl suffer just because she had lost a man to whom her parents had married her to when she was very young? These are the evils we are fighting against. It is not a question of age only. Child marriage has done a great deal of physical harm to the women in our country. I do not at all understand the argument brought against this very small amendment which has been suggested in the Bill before this House.

I think, Sir, it is necessary to amend this Bill because people still try to evade this particular measure that is already there. They try to evade in all ways and means. In our part of the country—in South India—people used to go to different States where this law was not in force. I do not know whether they can do the same now, but I think in certain States in India even now there is no such enactment and child marriages take place. This has got to be stopped. I think, Sir, the Child Marriage Restraint Act has done enormous amount of good to young boys and girls in this country. For one thing they get more education now than they could before this law was passed. Before that they used to be educated to a very low standard and then their parents used to take them away from schools so that they might be fitted for marriage. If you go to girls schools now you find them over full of girls and if you go to schools where girls are allowed to study along with boys you find very large number of girls there also. That is one of the greatest advantages that this law has done to our girls *i.e.*, it has given education which they did not have before. Besides they are much more physically fit today than they were before. Just imagine a girl of 14 having children and having to look after a household, having to look after kitchen, and so on. She may not be physically fit to do all this work, but still she has to do it just because she is married at a young age. This is the age when she should go to school and play with her friends and lead an irresponsible life, and not behave and act like a woman with great deal of responsibilities thrown upon her shoulders.

My Honourable friend, Mr. Gole, also quoted the law prevailing in England. Sir, I have heard people quoting about things not being suitable to this country in spite of the fact that they happen to be prevalent in England, America, and other western countries, but when it suits our purpose we are very anxious to quote them favourably. England is quoted as having a law which permits a girl to marry at the age of 12. England has had that law for very many years, but I should like to ask my British friends here—I also claim to have first hand knowledge of England and the customs which are prevailing there—to bear me out when I say that hardly any one in England gets a child married at the age of 12. So though the law is there they do not find any necessity to reform that law because in custom they are not taking advantage of that particular law. So I would like to tell my Honourable friend that it is not much use saying that in other countries there is such a law. If bad habits and had customs prevail in other countries, there is no reason why we should follow those countries when we are trying to introduce certain reform measures with regard to legal questions in our country. The whole question today is to make this legislation, which was enacted some years ago, stronger. It is not strong enough today. I feel that the parents who should be punished are not punished enough. For one thing they try to evade law by giving wrong age, and apart from that they set apart the amount of fine that can be imposed on them beforehand and they regard this as a part of the dowry that they give to the girl. That is done over and over again, and that is what we should stop. If you make this

offence punishable by sending the accused to jail, I am sure they will be a little more careful hereafter. They should know that they cannot evade the law just by putting aside a certain amount of money for paying the fine. Going to jail for any crime other than a political crime is still considered rather a bad thing in society. I am glad to see that it is so, otherwise there may be more people willing to go to jail on this question. But as society is situated today, people are still a bit afraid of going to jail because they have a certain amount of hesitation about going to jail. So I very strongly support Mr. Bhargava's motion and I hope the Government will give it consideration and that they will see it fit to accept it. I particularly appeal to the Honourable the Law Member to take this into full consideration and allow this amendment to be introduced to the Child Marriage Restraint Act.

I support the motion.

Sjt. N. V. Gadgil (Bombay Central Division: Non-Muhammadan Rural): The motion for reference to Select Committee and the motion for circulation in my humble opinion are not entirely irreconcilable. After having heard the speech of Mrs. Swaminadhan, I would rather request the Government to ask for public opinion by an executive order by 31st July or by the middle of August, so that when we meet the next time it will be possible for this House to get the report of the Select Committee and get through this Bill in all its stages if the House is convinced that such a measure is absolutely necessary.

The point at issue is very simple. The House is already committed to improve the provisions of the Child Marriage Restraint Act. In 1929, when this Act was first passed, the then Government defined its attitude as one of some indifference. The Home Member then stated that the Government would intervene in social matters only under two conditions: one of the conditions was that the Government must be convinced that there was a great and corroding evil and the second condition was that there was a promising and a practical remedy. One can understand such an attitude on the part of a Government which was neither national in outlook or in personnel. But now all that is changed. I would rather, and many of my friends rather expect, that there would be a more liberal attitude on the part of the Government. As far as I am able to see the Congress Party is committed to social reform and so far as the other Party in the Interim Government is concerned, I can tell my friends on my right that their leader, Mr. Jinnah, said in 1929 that he was perfectly in agreement with the principles of the Bill which were ultimately embodied in the Act of 1929. He even went to the length of saying then that if someone argued it was against religion, he enunciated a great principle: if it was a question between religion as such and public morality, he would go in for public morality because he understood it to have more importance and more consequence on social outlook and progress. In the original Bill that was drafted by Harbilas Sarada, there were many stringent provisions but it was so watered down that only a ghost of its original self was gone through. Some figures have been given by my friend, Pt. Thakur Das Bhargava, which show that the number of marriages increased in the year 1931. I am reminded just as what happened on the 1st March this year after the share market people learnt the taxation proposals. There was heavy unloading. The same thing happened in the marriage market, and I am inclined to quote from a newspaper *Liberty* what was published by it on the 16th March 1930.

"A matrimonial wave is just passing over the country. Bride in embryo is being married to groom in the cradle. The Sarada Act is coming into force and the pig-tailed Pandits have sanctified juvenile to stave off perdition. Poor girl just learning to suck the feeding bottle being carried over to the wedding bower. Urchins are being snatched from the arms of their playmates to don the garb of a groom. As an emergency measure the elastic Pandits have issued an edict whereby they have certified the month of Chaitra to be the proper season for matrimonial alliances. Our Pandits have extended the limits this year. We are sure before the 1st April comes on there will be hardly left single unmarried man or woman in India."

[Sjt. N. V. Gadgil.]

When the two amendments that were incorporated in 1938 in the main Act were under consideration, I was a Member of this House and I gave certain figures to show the number of child widows even below 1. In the year 1931 the House will be surprised to know the number of child-widows below 1 was 1,600. That was the position. It was then a case clearly of a great and corroding evil and when it was found out that the breaches of the Child Marriage Restraint Act went unpunished, a great Englishwoman, Miss Rathbone, wrote a book in which she accused the Government of the day in no uncertain terms. Her indictment is worth quoting:

"The necessity for enforcing respect for law and order has recently been much in the minds and on the lips of those in authority all over India. But laws concerning social reforms are apparently an exception, being intended rather to quiet the conscience of the legislators and their critics at home and abroad than to be obeyed. The official attitude was indicated after the first recorded prosecution under the Act. The offender who had given his ten year old daughter in marriage in defiance of the warning of his village headman, was sentenced to one month's imprisonment—the maximum term permitted under the Act. Instantly the Punjab Government telegraphed to order the man's release."

Of course that reference was to Englishmen in authority. My friend, Mr. Gole, asked why does not the Government take some part in seeing that the evil does not grow. Unfortunately all these offences are noncognisable. Some of the defects in the original Acts were sought to be remedied in the two original Bills introduced in 1938. One was about Extra Territoriality that was moved by Mr. Latchand Navalrai. He gave examples how marriages were celebrated in the mid currents of river Indus as it was the frontier of British India. Some marriages were celebrated in the jurisdiction of several Indian States and that was no offence under the Act. That defect was remedied by one of the amending Bills. Another amending Bill was introduced by Mr. B. Das, which was really drastic in the sense in which Mr. Gole understands the term. If it had been accepted *in toto*, I am sure there would have been no need to introduce a Bill of the character which has been introduced by my friend, Mr. Thakur Das Bhargava. That Bill provided for three things: one was that there must be a provision for an injunction as soon as it was known that a marriage in contravention of the provisions of this Act was about to be celebrated: Any party could go to the Court of the first class Magistrate, get an injunction and prevent the marriage. And then there was another provision. If in spite of injunction or even otherwise a marriage was celebrated, then that marriage should be considered as invalid. That was really the most effective remedy. And the third remedy that was suggested then was to make the offence cognisable. I quite remember the then Law Member, Sir N. N. Sircar, in the course of our discussion in the Select Committee said: "Look here. You are in the majority in the Select Committee. You will carry the day here. But we have a pocket borough in the Council of State, where we will put down all your amendments and your Bill will make no further progress. Therefore it is much better to understand the principle of politics, *viz.*, give and take." We rather gave more than we took. The result was that there was a provision incorporated about injunction and a penal provision *viz.*, fine or imprisonment but not both was also incorporated. While the discussion on that Bill was going on in this House. I remember my Honourable friend Mr. Bajoria, the predecessor in title of my Honourable friend Mr. Gole, the Sanatanist opponent of that Bill, was actually mobbed in the sector outside the House. I do not know whether it was a pleasant surprise or otherwise to him. But the fact that was then brought to the notice of the House was that the women, at any rate, in Delhi were for passing that Bill in as stringent a manner as possible. Not only that. As far as I remember, the Bill was passed on the 4th April and on the 8th there were about 200 marriages to be celebrated in Delhi. The women of Delhi waited on His Excellency the Viceroy. The Bill was passed

in the Council of State on the 7th evening and before it was midnight it received the assent of the Governor-General with the result that the next day in Delhi the marriage parties turned into mourning parties! But since 1929, I agree with Mr. Gole to some extent, there has been some change. The evil at any rate in the part of the country from which I come (because I can only speak of my province with some experience) has been much less and the age of marriage has considerably increased. Now marriages are not celebrated in the manner in which they were done before though the evil is still there. It is not much prevalent I know in the cities, because in the cities and so far as the members of the upper classes are concerned the problem is the other way. It is difficult to induce young men to get married. That is the problem there. But in the rural areas or countryside, especially, among the peasants it is in evidence although on account of economic hardship before the war, they fully realised that it was much better to postpone the marriages of their girls and boys to a latter period of their life.

Mr. President, you must have as a lawyer seen a number of documents, sale and mortgage deeds executed by poor peasants as I have done in my own humble way, where you would have always found two circumstances detailed in the body of the document, whether it was a mortgage or sale deed. The reasons given usually are either to celebrate the obsequies of the parents or the marriage of their children. Normally out of ten documents, at least in seven or eight the reasons given for the transfer of property would be some such thing.

I remember in 1938 when this Bill was passed, the District Local Board elections were to be held in the district of Poona. Some of the Congress workers came to me and said "What have you done? We are sure to lose the elections, because the whole countryside is against you. How can our girls remain unmarried after they are ten or twelve? We will lose the election." I have immense faith in the common sense of our peasants. I went round and I am glad to tell this House that we won all the 48 seats, although our opponents went about abusing me in particular as the villain of the piece. They said "This was the man who had tampered with our religion. He is now tampering with our social customs." But I appealed to the peasants from the economic point of view. I told them "Instead of marrying your daughter or boy at an early age for which you have to alienate your property very early, if you postpone it by five or six years, at least you will be saved from the *Sowcars* for sometime." That argument went home to them and not only we won the elections but gradually they came to understand that this was really a measure for their benefit. I do not claim that we have succeeded fully but for any abiding result in the social sphere it is much better and more reliable to depend upon effective propaganda. But that should not deter us from considering the merits of this piece of legislation which is now under the consideration of the House. After all it resolves itself to this. What are the sources of obedience to law? That is the real question. Is it conviction, convenience or coercion? If a man is convinced that obedience of law is in the best interests of the individual and society, there is no problem. If the man thinks that by obeying the law it is more convenient to his life and to his business or profession, then also the problem is not so acute. But when it comes to coercion we have to think how far and how long we shall coerce the individual. We have to find out a demarcation line or a measure "Thus far and no further". By coercing too much we might provoke a big revolt in society. At the same time if we leave the whole field for good sense, it is equally difficult, because good sense nowadays is very rare. If my Honourable friend Mr. Thakur Das Bhargava is convinced that there is a great and corroding evil in his own province and what he suggested is a practical and promising remedy, by all means he should have it. But some of us who are of a different view point think that the radical remedy is to declare such a

[Sjt. N. V. Gadgil.]

marriage invalid. That being not within the purview of this motion, I am sure you will not allow me to dilate on that. But I have one request to make to Government. Instead of supporting Mr. Gole's motion for circulation, will they not think that the same purpose will be achieved by asking for public opinion by an executive order and allowing this reference to go through the House?

Mr. President: The date within which the report of the Select Committee is to be submitted is not mentioned in the motion. Am I correct?

Mr. P. B. Gole: 31st August.

Mr. President: I am talking of the motion proper and not the amendment.

Pundit Thakur Das Bhargava: It is not mentioned in the motion. I do not know whether the Bill is going to be circulated. I would submit that the report of the Select Committee should be received by the 31st August 1947.

Mr. President: Then does the Honourable Member wish to add the words "with instructions to report by the 31st August, 1947"?

Pundit Thakur Das Bhargava: Yes, Sir.

Sreejut Rohini Kumar Chaudhuri (Assam Valley: Non-Muhammadan): Sir, it is with great hesitation that I take part in this social legislation, because I find that I am not seriously taken by most of the members of the House.

Honourable Members: Not at all.

Mr. President: Will the Honourable Member come to the microphone?

Sreejut Rohini Kumar Chaudhuri: Sir, I feel very nervous under the direct gaze of the Chair.

Sir I certainly admire my Honourable friend, the author of this Bill for his desire to bring about social reforms. In passing I desire to pay my tribute to my Honourable friend Dr. Deshmukh who is also responsible for many such pieces of legislation. But what I am wondering at and thinking all the time is that instead of trying to prevent ugly marriages amongst elderly people, amongst old bachelors, why are they thinking so much about youths who may be thinking of marriage. We have found various instances of senility amongst elderly people when they want to marry at a very late stage. Attempts should be made to stop such ugly sights also.

Now, Sir, I want to seriously answer the two questions which were raised by my Honourable friend Mrs. Swaminadhan. She was asking why there was no widowers' home. Sir, it is either an irony of fate or the curse of Eve that we find that after a man becomes a widower his talents really come to display themselves and the older he grows in his widowhood the more talented he becomes. If you think of eminent Professors and scholars you will see that most of them are confirmed bachelors or widowers. Think of the heads of the press also in your own country. You will see that they are either confirmed bachelors or widowers. Think of the Members of the Government—I am thinking of my own Province and am not thinking of the Interim Government at all (loud laughter). Sir Muhammad Sadullah was the head of the Province for a very long time and he became so, I think, immediately after he became a widower. It seems, Sir, that if anyone wants to distinguish himself he should either prefer the life of a bachelor or he should not mind being a widower. Widowers are blessed by their wives from heaven for their fidelity to the deceased wives. No wife would like to think at any moment that her husband has another wife particularly after her death. The wives would think that advantage has been taken of their death. If a wife is alive and if the husband takes another wife in her lifetime they could have fought with each other and one or the other could win the husband. When they are no more on the earth, if advantage is taken of their death and if the

old men think of marriage the curse from the wives from heaven comes on them. So the widowers are blessed, they acquire more distinction after they become widowers. That is the reason, Sir, why we see very little of widowers' home in this country.

The second question which was raised by Mrs. Swaminadhan was 'Why can't a young man and a young woman wait for one month more and have a legal marriage?' Why are they so impatient that they want to marry, as has been suggested by my Honourable friend Mr. Gole when there may be one month more to cross the objectionable age? Why can't they wait for a month more? Sir, this is a question which my Honourable friend and other young men in this House may answer themselves. One month is a preciously long time and I should be doing a great injustice to Mrs. Swaminadhan if I say that she has entirely forgotten this—she or anybody else in this House.

Sir, I am keeping my notes before me because I want to deal very seriously with some points. I cannot forget the benefit which this Child Marriage Restraint Act has brought to our social life. If nothing else has been done it has done at least this, namely, that ostracization on account of keeping marriageable girls in the house has become a thing of the past. No one would dare to ostracize anybody because there is a grown up girl in his house. Formerly if a Brahman had in his house a daughter who had passed her marriageable age he would be boycotted. This social benefit at least, has been the result of the Child Marriage Act. Now, poor parents get less worried about the marriage of their daughters. Formerly if you had a daughter of 11, 12 or 13 years of age you became so worried that you began to hunt about for bridegrooms, and every young man would say 'I am not going to marry; I must begin earning my livelihood before marrying'. If you go to the father of the young man he says "I am willing for the marriage. I have no objection. But my boy does not want to marry." The parents of girls are now relieved to a great extent from this sort of humiliation.

The third thing, which is very important, is now the girls as they grow up become more attractive. They become more accomplished. They know the art of winning. Naturally nowadays it is possible for a parent to have the marriage of the girls at a much lesser cost and with much less worry than before.

These are the three advantages which, as I see, have directly come out of the child Marriage Restraint Act: I remember the year 1930. The Child Marriage Restraint Act was to have come into force on the 1st April 1930. The month preceding was a gala month for many of our maritally inclined people. The month of *Falgun* in 1930 was a gala month for old and young, Hindus and Muslims alike. The old men who could not get a bride after waiting so long were offered a bride. Young girls were offered to them for marriage because the parents wanted to evade the law. Men who wanted to have more than one wife, men who had an ailing or sick wife, got sporting offers from their neighbours. It was a great advantage to them. Poor men who could not otherwise manage the cost of marriage were offered the entire cost of the marriage. The girl was offered, the cost of marriage was offered, and some property also was given. A fine crop of marriages there was at that time in the month of February that year. But there was one great public disadvantage, namely that there was very little of entertainment. The public was not invited. They were not only not invited in this period but the entertainment for three or four years after that time vanished, because there was no marriage afterwards. All the marriageable girls had been married with the result that there was no marriage for the next three or four years. That was the only public disadvantage if I may say so.

Now, I want the House seriously to consider this point whether this Bill should be circulated for eliciting public opinion or not. If it is circulated for eliciting public opinion this Bill will not have the force

[Sreejot Rohini Kumar Chaudhuri]

of law for about a year more so that those persons who want to evade imprisonment, which my Honourable friend Pundit Bhargava wants to inflict on them, can finish all their marriages within the next twelve months. They shall get the months of *Baisakh*, *Jaistha* and *Agrahayan* and *Palgun* and will take the advantage. That is precisely the reason why my Honourable friend, instead of opposing this Bill, has put that amendment before the House—because we shall get one full year within which we can dispose of all the marriageable girls. But I would ask him to withdraw his amendment because I can comfort him by pointing out that if the Select Committee's recommendations come to the House by the 31st of August, then naturally this Bill will not be actually converted into law at least for ten months. so that, when we are busy, in the meantime we can do all that is necessary to evade the mischievous effect of the legislation of Pundit Bhargava.

Another question which I wanted to raise before the House is this. I want to ask my friend Mr. Bhargava to seriously consider whether in his experience as a jurist he can really say whether the enhancement of the sentence for an offence brings about a reduction in the commission of the offence itself. Take the question of the abolition of the capital sentence. There is the capital sentence for murder. Has the number of murders been reduced because of the imposition of such exemplary punishment. During the war period the sentences on many offences were very much enhanced. In the matter of social legislation the enhancement of the sentences does not seriously affect the number of offences committed. We must pause and consider whether it is advisable to enhance the sentence in the hope of bringing about a reduction in the number of offences.

Therefore instead of thinking of enhancing the sentence, we should think of some other means of dealing with these offences and I think it is useless to think of adding to the horse power of an engine when the engine itself has stopped. This engine of child marriage Act is not working at all. I would, however, most seriously protest against making this a cognisable offence. I would not do it with the police as they are at present. The time may come when we may have more reliance on our police but for the present I would not like the police to meddle in our social affairs. Instead of that, I would prefer a more liberal use of issue of injunctions to prevent marriage and to have a legislation which would make the marriage itself invalid, if there is a marriage in spite of the injunction. That will be a more effective way of checking this kind of marriage. Instead of making the offence cognisable, we may have a Board of Complaint or something like that. They will function in every village or *talug*. They will make complaints before the Court. They must have funds of their own and the personnel of the Board should be selected from among those persons who are dead against marriage, who are by their nature opposed to marital relations, and who have no chance of marrying. Such a personnel should be selected and they can be fully trusted to make a complaint whenever a marriage takes place. I hope the House would take my suggestions seriously. With these words, I support the Bill.

Sri M. Ananthasayanam Ayyangar: Sir my friend, the previous speaker Mr. Chaudhuri has absolutely no reason to complain that his speeches are not heard seriously. I have never heard a more interesting speech during all these years that I have been in the Assembly. His suggestions have been excellent. He has supported the idea of a widowers' home and he has exalted widowers to a very high position, though I am sure that nobody would like to kill his wife in order to become a widower.

Now as regards this Bill, there is absolutely no doubt that all sections of the country, even the so called *Sanatanists* and very highly pious and orthodox men have become reconciled themselves to the Sarda Act of 1939. No marriage

takes place now of boys below 18 and of girls below 14. The provision of imprisonment as a punishment is already there. When a boy is married between the ages of 18 and 21, that boy is punished not with imprisonment but with fine which may extend to thousand rupees but after 21 if he contracts a marriage with a child below 14 he is liable to imprisonment also for a month. As regards the persons who are in charge of the minor, they are liable to be imprisoned and also liable to a fine which may extend to Rs. 1,000. Other persons who officiate or bring about the marriages are also liable to imprisonment for a month. The amendment sought to be made by this Bill is this. My friend wants to impose imprisonment for 15 days in the case of boys between 18 and 21 who marries a child. The House has to consider whether that provision is necessary. If he is rich, it may deter him from marrying. The rich people are more prepared to pay off fines and if there is a prospect of imprisonment, such marriages may not take place. My friend Mr. Bhargava says that in spite of the Sarda Act such marriages are prevalent amongst backward communities. The richer communities are not performing such marriages now and in their case there is no need of such a provision. As regards backward communities the provision of a fine to the extent of Rs. 1,000 will be more deterrent than imprisonment. I am not casting any aspersion on anybody but if as soon as a marriage is performed the family stands to lose the wherewithal with which they have to live, it will be afraid of losing Rs. 1,000 and not so much afraid of imprisonment for a month. So this amendment would not have any deterring effect even with respect to the lower classes.

I have tried to examine the report of the various police administrations on this subject. Let me take Punjab. I know personally that in the province of Madras the Sarda Act is being followed almost strictly according to the letter of the law. Very few child marriages take place. None of them have come to my notice, except some cases in the border where the parents do not know whether a girl is more than 14 by a few months or less than 14 by a few months. A man celebrates the marriage of a girl who is 13 years 9 months or 10 months and later on some other party lodges a complaint on account of some old grudge. The same thing happens in connection with stabbing cases. People take advantage of communal trouble to pay off old scores and stab stabbing people against whom they have an old grudge. That is what has happened. So far as my Presidency is concerned, there are very few cases of such marriages. Let me take the province of the Punjab. I have got a report from which I find that in the year 1945 there were 125 cases reported against the Child Marriage Restraint Act, 1929. 110 were taken to be true and they were tried. The cases which were taken over from the previous years and which were not completed in the previous year were 263. Out of these 263 cases, 144 were acquitted and only 46 were convicted. Now, I come to the United Provinces. There were 577 cases, out of which 424 were acquitted and only 128 were convicted in the year 1941. I have not got later figures. I have got also the report from Assam, but unfortunately that report does not give any details regarding the offences under the Child Marriage Restraint Act. Therefore, it appears my Honourable friend is obsessed with the circumstances and conditions that were prevailing in 1929 and that is why he has made a constant reference to the proceedings and the reports of that time. Nobody denies that there were child marriages then which were obnoxious and the so-called unreasonable orthodoxy was prevalent and such marriages were going on constantly. Since 1929 almost 18 years have elapsed and such marriages are not prevalent now. Further, this is a provincial subject and I do not know if it is necessary to introduce this legislation here. Of course, there will be one more piece of legislation to our credit; there is no question about it. But, after all, the question is whether such a legislation is necessary at this stage? We have not been sleeping over this matter. From time to time we have had persons who wanted to re-inforce the Sarda Act. They were on the

[Sri M. Ananthasayanam Ayyangar.]

alert. Since 1929 two amending bills were brought before this Assembly and we passed them into law. One in the early part of 1938 and the other in the latter part of the same year. One was to prevent the marriages of British subjects being celebrated in Indian States or, in our part of the Presidency, in the French possessions to avoid coming under the clutches of the Child Marriage Restraint Act. The first Act enacted that persons who are British subjects and who contract marriages below the prescribed age limit will be punished under the Child Marriage Restraint Act. That was accepted and passed into law. But under the provisions of the Child Marriage Restraint Act a marriage, even between children, is valid. The marriage does not become null and void, though the parties to the marriage are not of marriageable age.

Another Act that was passed by this Legislature was the one which empowered the courts to issue injunctions to prevent such marriages. Even that Act was passed. If the injunction is disobeyed, the person who disobeyed the injunction would be punished with imprisonment extending to three months and not of one month, as in the original Act. Therefore, that is a sufficient deterrent and sufficient power in the hands of all persons who are interested in seeing that child marriages do not take place. I find social parties have not been organised in various places and even if we should agree that 15 days imprisonment ought to be imposed and we modify the law as desired by our Honourable friend in this Bill, that law by itself would not work itself out. The provisions are sufficient deterrent. There are both preventive provisions as well as punitive provisions and no party can escape by celebrating marriages anywhere. The only difficulty is that persons have got to be educated and persons who are interested in seeing that such marriages do not take place should be on the alert and should bring the matter at once to the notice of the parties and thus prevent such marriages from taking place. No such steps have been taken. I would ask the Honourable Member himself what steps have been taken to his knowledge? Merely coming to the Assembly and moving such a Bill is not enough. Anyone can prepare a Bill like this and give its notice. But what steps are taken either by him or by others to see that child marriages are prevented? It is only that which can prevent such child marriages. But let it not be said that I am against it; I am anxious that child marriages ought not to be allowed to take place in this country. But what about those who have not taken even a step towards that direction. However, if the House is inclined to pass this Bill, I have not the least objection to it. We will be adding one more amendment to the Child Marriage Restraint Act without really taking care to see that child marriages do not take place.

I would now like to make one or two suggestions. It is true that under the law as it stands at present the offence of child marriages is not a cognizable offence. There was a suggestion made at the time when the original Act was passed in 1929 that the offences should be made cognizable. No doubt it is a dangerous weapon in the hands of the police authorities. The police have been playing ducks and drakes here and there and I am not directing my criticisms against any section of the police. But so far as this social matter is concerned, this power may be greatly abused. But since 1929, when this Act was passed, if the power was given to the police of this offence was made cognizable for the last 7 to 10 years, then the community would have become accustomed to put off marriages to the age of 14 or 15. If the first daughter is not married before 14, they have crossed the bar not only in their family but in the entire community, because on account of orthodoxy or religious scruples they cannot marry after the age of puberty. If it is made a cognizable offence and the man is prevented from celebrating such a marriage with

respect to the first daughter, then he has gone over to the other side and thereafter no principle of orthodoxy can stand in his way. Therefore, the enthusiasm that has been exhibited by the Honourable the Mover of this Bill was well worth exhibiting in 1929, when the first Act was passed, and he should have impressed upon the Legislature then to make this cognizable for at least 5 or 10 years. If he had done that, the Sarda Act might have been easily repealed because the society would have taken to it. But that has not been done. I know of cases where, even with these provisions, when a man makes a complaint, he has to deposit a sum of Rs. 100 or to execute a bond to the effect that his complaint is not a frivolous one. That is due to various grudges when they know some false complaints can be made. They expose the man and the bigger the man the greater the exposure. I do not see very much help or use so far as this Bill is concerned. But I do not want to be proclaimed outside or inside the Assembly that I am against any particular reform. So, if the House is anxious to get it through, by all means let it be passed.

The Honourable Mr. Jogendra Nath Mandal (Law Member): (Mr. President, before I enter into the merits of the Motion and express the attitude which the Government propose to take regarding this particular motion, I want to express my appreciation of the object for which the Motion has been moved by my Honourable friend Pandit Thakurdaṣ Bhargava. There is no doubt that child marriage in India has been a social evil. Much was said to remove this social evil. One point is very clear to me, that there is no controversy over the principle of the Bill or the object of the Bill for which it has been moved. To my mind it appears that the remedies suggested in the Bill to check child marriage are not satisfactory remedies. The Child Marriage Restraint Act is there and there are penal provisions. Now what the Honourable

M. P. M. Mover has sought, is to enhance the punishment provided in the Bill. I do not agree with the view that only enhancement of punishment will put a stop to the evil. As has been rightly pointed out by my Honourable friend Mr. Ayyangar, the people of the poorer section and the backward class people would prefer even enhanced imprisonment to payment of fine of Rs. 1,000. Pandit Bhargava has said that child marriages are still prevalent in backward communities. Assuming his argument is correct, we must consider whether the remedies suggested to check the evil will really achieve the object. It has been said by the Honourable Mover that the Child Marriage Restraint Act has been a dead letter. He accused the Government for their failure to take effective steps or even to issue instructions that in case of flagrant breach of law, imprisonment should be inflicted and in other cases fine should be imposed. I should like to draw attention of the Honourable Member to the conditions and feelings prevailing at the time when such instructions were issued by the Government. The introduction and passage of the Child Marriage Restraint Act of 1929 evoked much criticism and opposition throughout the length and breadth of the country. It has been said by many previous speakers that the year 1929 was a gala year, for millions of marriages took place in that year. My Honourable friend Sreejut Rohini Kumar Choudhuri expressed his grief that for four years subsequently there were no entertainments for the public and the public at large suffered from the passage of this Act. I quite appreciate his view and the difficulty of the public. Now, Sir, at that time objection was raised from many quarters and people went so far as to say that the Hindu religion would be murdered. After the passage of the Act, it was found in some provinces that people were very much opposed to the penal provisions of the Act and then only the Central Government issued some instructions to administer the provisions of the Act as liberally as possible

[At this stage Mr. President vacated the Chair which was then occupied by Mr. Chairman (Sveḍ Ghulam Bhik Nairang).]

-[Mr. Jogendra Nath Mandal.]

I hope the House will agree with me that among educated classes and among the nigher communities and higher castes child marriage has practically stopped. Now nobody can persuade the guardians of children to get their wards married at a premature age. Regarding the backward communities, I must confess this evil is still prevalent. Why is it so? I do not agree with the view that this evil persists among backward communities because of the lenient provisions of the Child Marriage Restraint Act. I feel that because they are illiterate, because they are backward, because they do not properly realise the evil consequences of child marriage that is why they indulge in marriage of children. From the Child Marriage Restraint Act it appears that for the enforcement of its provisions no additional machinery was set up, nor was it thought necessary to set up. Where such child marriages took place, it was left to the people to bring it to the notice of the Magistrate and lodge a complaint against persons who brought about the marriage. Then, Sir, what was the spirit. The public or the people who were anxious to put an end to child marriages were expected to actively co-operate in the administration of the Act. But where child marriage is still prevalent and if anybody presumes that the public of that locality does not co-operate with the Government or is not earnest and anxious to prevent this child marriage, then nobody can blame him. And surely I should presume that in areas where child marriage is still allowed the people or the leaders of public opinion thereof are not active and conscious and do not exert their energies and influence to put an end to this social evil. As the subject-matter of this motion falls within the concurrent legislative list the provinces can well enact a law or amend this Act. And when that is permissible I think it is advisable and desirable that in provinces where child marriages are still going on and where the leaders of public opinion consider that the penal sections of the Child Marriage Restraint Act should be enhanced and enlarged, the provincial Governments should take it up. Many Honourable Members have participated in the debate and with the exception of Pandit Bhargava no one has complained about this child marriage in his province. From this I presume that in all provinces this evil does not exist. So in a province where it is still prevalent and where the authorities and leaders and representatives of the people desire that something should be done to stop this evil the best course would be for them to move the provincial Government to amend this Act. Sir, while I say this I want to make it perfectly clear that neither are this Government nor am I opposed to any social or progressive legislation. If this Government feel that by a particular legislation some good will be done and the society will derive some benefit, surely this Government will not hesitate to agree to the proposal. But, as I have stated before, we feel that by a mere enhancement of punishment this Act, cannot be made more effective and the desired object of putting an end to child marriage cannot be achieved.

It has been very rightly pointed out that the object for which this motion has been moved can be better achieved by educative propaganda. I am prepared to accept the suggestion that in areas where child marriage is an everyday business a committee consisting of leading people may be formed who may either dissuade the parties from performing the marriage or bring the matter to the notice of the authorities for proper punishment. If the people at large co-operate with Government and are really anxious to see that child marriages are stopped, how can they take place without being brought to the notice of Government? Why do not the local people bring it to the notice of the authorities? Surely a marriage cannot take place very secretly, and even if it does take place secretly a number of people must come to know of it; and as soon as they come to know of it, they should bring it to the notice of Government. Sir, I have experience of my own province of Bengal and there although the people of the backward communities still try to evade the law the majority of

them have stopped child marriage and the number of such marriages are negligible. In these circumstances what Government feel is that it is not necessary to amend the penal provisions of the Child Marriage Restraint Act and enhance the punishment. From the Statement of Objects and Reasons it is clear that although the Honourable Mover feels that child marriage has been very greatly reduced he thinks that for want of a very severe penal provision in the Act people indulge in a breach of the law. In my opinion this view is not correct. That section of the people which continues to perform these child marriages will still continue to do so even if the penal provision of 15 days is enhanced to three months or the fine of one thousand rupees is raised to two thousand. The Honourable Member has suggested that in almost all cases imprisonment must be the punishment and, as has been stated, the people of the backward communities and illiterate people would prefer imprisonment to payment of a heavy fine. I therefore feel that no useful purpose will be served by accepting this Motion. However, as I have stated, this Government are not opposed to any beneficial measure, if it is really considered beneficial for society, I have no objection to accept the motion for circulation of the Bill for eliciting public opinion thereon. Sir, in the amendment moved by my Honourable friend, Mr. Gole, the date is given as 31st of August. The Honourable the mover of the motion spoke to me and he expressed his desire that if the date could be brought earlier then the House would get an opportunity to express its opinion after eliciting the public opinion. In view of that I suggest that the date may be fixed at 31st of July 1947, because in that case if we have any Session of the Assembly in the month of August we will have an opportunity to consider the public opinion and decide whether the bill should be referred to a Select Committee or whether it should be considered and passed.

Personally I feel that there is absolutely no utility for such an amendment of the Bill, but still lest this Government are accused of obstructing any social measure we are prepared to accept this motion. If public opinion is expressed in favour of the amendment, then surely the Government will be prepared to pass it into law. The matter is undoubtedly very controversial. Of course there is no controversy over the principle of the Bill, but people will feel that when all sections of the people of this country, even the orthodox section, have reconciled to the provisions of the Bill, what was the necessity of again making such an amendment and injuring the feelings of some section of the people who were opposed to the Bill from the very beginning. If public opinion is expressed in favour of the Bill, surely the Government would be prepared to support its passage. I accept the motion for circulation of the Bill for eliciting public opinion with the slight amendment that the date may be changed from 31st of August to 31st of July.

Pundit Thakur Das Bhargava: I have listened with very raft attention the observations advanced by my Honourable friends with regard to this Bill, but I am extremely sorry to state that I have not changed my opinion about the ignorance of the general public or ignorance of even very prominent people about the actual prevalence of this bad custom in my country. When I made my first speech I brought to your notice the state of mind of even very big leaders of the country that they also did not know the extent of the evil, and I am not surprised that my Honourable friend, Mr. Gole, and others stand up in the House and tell me that the evil is no more to be found. I would be the happiest man if I agreed that their belief was correct. I did not know it myself as far as 1929 that the evil was so great and nobody perhaps knew about it. It was because Miss Mayo wrote that book that the Government were as a matter of fact constrained to appoint this Committee as two bills were also pending. But after going through the country and finding the extent of the evil I was convinced, the House was convinced, the whole country was convinced that there was a good case for child marriage law. Now, Sir, within these 18

[Pundit Thakur Das Bhargava.]

years the change has not been so great as some of my Honourable friends contend. I will be extremely glad if their experience in life warrants such a conclusion. Mr. Gole referred to the fact that in England the age of marriage was 12 and he referred to it in such a way as if India had made a mistake in fixing the age as 14. May I refer you to page 156 of the Report of the Age of Consent Committee? It reads like this:

"Whatever the age of Consent and the minimum age of marriage may be in other countries, marriages below 16 are very rare in practice, and the majority of marriages take place beyond 16. Three cases of marriage of girls at 13, 28 at 14 and 318 at 15 are reported to have taken place during the last 12 years, in England and Wales."

My Honourable friend should not have the audacity of comparing the conditions in England and in India.

Mr. P. B. Gole: I only said that it is not an offence.

Pundit Thakur Das Bhargava: I do not know if my Honourable friend knew the conditions in the Central Provinces itself in 1929. Unfortunately we have not got the Census Report of 1940 giving the full details of conditions in the whole of India, and therefore I am not in a position to contradict any person who says that as a matter of fact child marriage is not prevailing in his part of the country. But all the same I know that conditions have not changed; they have changed to a certain extent, but not much. In the Central Provinces the number of widows below the age of 5 was 244 and the number of girls married before the age of 5 was 6,742, and the number of girls married between the age of 5 and 10 was 32,580, in 1931.

Mr. P. B. Gole: Was it in 1929.

Pundit Thakur Das Bhargava: These figures relate to 1931. In Nagpur with a population of 11,753 has as many as 2,599 girls between the age of 5 and 10 were married, and about 205 are widows.

Sri M. Ananthasayanam Ayyangar: That was in 1931.

Pundit Thakur Das Bhargava: Yes. I quite see the point of my Honourable friend. I am not in a position to bring before them the Census Report of 1940. I do not say that I can contradict them by these reports, but all the same I am living in India in the same way in which they are living. My Honourable friend, Mr. Ayyangar, has rather taunted me by suggesting that we have done nothing after this Report of the Age of Consent Committee. May I know what has the Government done and what have the Honourable Members done who have spoken before this? I can speak for myself; I have done my very best; I have brought many cases to court. I have conducted many such cases gratis and I have held many conferences and I have done a good bit of propaganda. But as I have said before so far as the question of propaganda was concerned, the first meeting was held in 1880. I know the value of propaganda. It will have no effect; it may have some, but at the same time it will not be too great to mitigate the evil of child marriage.

Further, I am rather amused from the fact that Member after Member has stood up and stated that this Bill shall have no effect and we should have recourse to other means. If you read the objects and reasons I have myself submitted I have said that "among the remedies which the Government may adopt the provision of enhanced and compulsory imprisonment by way of punishment in respect of the infraction of Sections 4, 5 and 6 of the Act is fairly calculated to have a deterrent effect and may perhaps effectively check-mate the evil. . . ." I cannot vouch that this is the only way, and I am of the opinion that because I know that the Government has done precious little in the past, and people who do not know the real conditions of life are not likely to do more in the near future. I want that this help from the law may be taken and used for the purpose to check-mate the evil. My scheme of

things does not proscribe a plea like the one taken by Ayyangar and Gole to do all they can to fight this custom of child marriage. I am told that two Bills were brought, one in 1938 and one in 1939. May I humbly enquire why were these Bills brought? If this system of child marriage is not prevalent, what are you fighting for? This shows that child marriage was there and that the people wanted to evade it.

Now I am told that among educated people and the rich, this custom is no more to be found. I quite realize that in many cities in some of the communities, there is a rise in the age of marriage. I have already submitted that and barring that thing, I am the last man to believe that the rich people do not infringe the provisions of this law. If my friend knows the *Marwaris* and the rich *mahajans* of all these places and of his own place, may I submit that the evil of child marriage is there? As regards the backward communities, I am rather amazed by the knowledge that I get from the Honourable the Law Member that there are very few marriages among the backward classes also. Punjab is not an exception to India. If I know the Punjab rightly, in Punjab there are less child marriages than in other parts of the country. All the same, I know that in the backward areas and among the depressed classes, the evil is very much greater than what it is believed to be. Groups of girls of 20 and 30 are married at one time and without any consideration about the age of the bride and the bridegroom. Even to-day children in arms are married: children are betrothed before they are born. This is perfectly true. My friends who have spoken to me, may have knowledge of such cases. But if I were convinced like them that there are no child marriages, then, Sir, perhaps I would not only have accepted what they say, but at the same time made some amends to them. But I am convinced and it is very difficult to convince me otherwise, that as a matter of fact the evil is too great and demands a remedy at the hands of this House.

It is said that after all this Bill shall not have the effect which I could desire that it should have. The reason is that the poor man will care more for the fine of Rs. 1,000 and among rich men there is no such evil custom. If that is so, and the custom is non-existent in high-class society, why are they afraid? If there are no child-marriage cases they will not be adversely affected. But if the amended law can help a single case, it will be good for the society. I have yet to learn from the Honourable Members who say that custom of child marriage is not existent that in any case any Court gave a fine of Rs. 1,000. I have never heard of it and I do not expect that I will ever hear that any Court gave a fine of Rs. 1,000 to any poor man. At most the fine is from Rs. 15 to Rs. 50. If you see the records of Courts, the punishment has not been more. In the case of rich people, the fine has been Rs. 200. I know of one case in which the fine was Rs. 1,000 in the case of an extraordinarily rich man. In regard to rich people, the argument seems to have been accepted that rich people will avoid such things more on account of the fear of imprisonment than fines. Then let me help them. If there is one case this amendment will surely prove a deterrent to others. As regards the poor people, I am yet to be convinced that they are more afraid of fines than of imprisonment. So far as my experience goes, the poor man also is as much more afraid of imprisonment than of fine. In his case it is unfair that he should be fined more heavily than what he is today. Imprisonment will have an equal effect upon everyone.

The small amendment that I wish to place before the House has not been truly appreciated. I have given an indication in the Bill and there is nothing to prevent the House from improving the Bill in any way they desire. The object of this is to see that the evil custom of child-marriage is taken away from this country and any improvements that they propose to make will be acceptable. Mr. Ayyangar has grown eloquent about the fact that to start with the Committee did not recommend that the cases should be cognizable. The

[Pundit Thakur Das Bhargava.]

entire Committee was unanimous that it will not be fair to allow the police to interfere in domestic matters. I still am of this opinion that the police should not be allowed to interfere in domestic matters. Otherwise I would have entered it in the Bill. Now, it is said there is no machinery. At the time when the Sarda Act was on the anvil of the Legislature I put in certain amendments so that Government became responsible for bringing the culprits to book, but the Government did not accept the amendment. If the house is going to accept it now during the final stages of this Bill, this machinery can be evolved. I hope efforts will be made in the right direction so that the evil custom may be rooted out. Well, if the public did not co-operate, if the Legislatures did not co-operate, the duty of the Government was there to see that the custom of child-marriage was fought against. But what did the Government do? This Committee made forty recommendations and apart from piloting the Sarda Act in the Legislature nothing was done by the Government. This report cost the Country Rs. 2,88,614 and ten members were out in the country for ten months making enquiries and taking evidence from 400 persons. They got 1,200 written statements and yet the Government did not care about it. The real reason was that they made recommendations which were of a national character and put a certain burden on the Government. Now that the National Government is there, I hope everything will be done to root out this evil. I am suggesting a measure which will be helpful to the Government and let Government consider that. Let the Government do propaganda and educate the people, and if necessary let them adopt this remedy. I do not want to take the responsibility of saying that this is the only remedy. This is not my case. I am rather sorry to see that the Honourable the Law Member has been pleased to say that I admitted in the objects and reasons that the Bill was the only instrument for rooting out this evil. If it was, I would have said so. On the contrary I said the marriages are going on as merrily as ever and with impunity in backward communities and depressed classes. That is my complaint. Then the Honourable the Law Member said that people will continue to break these laws even if the punishment is enhanced. Why not then abolish the Indian Penal Code? People are still committing murders in spite of the punishments. Then why are you providing these punishments. If you do not provide the right sort of punishment for the right type of crime the law will not do its duty. I submit, Sir, that the enormity of the crime in this respect has not been appreciated. It has been left to the discretion of the courts to award either imprisonment or fine. I want the legislature to be alive to the fact that they should force the courts to award imprisonment in every case of infraction of section, 4, 5 or 6. Where it is a case of a boy of 18 years, I have myself suggested that the court should be given the discretion either to award fine or imprisonment. I have never stated that it should be compulsory in that case. I therefore humbly submit that this House should consider the question from this standpoint: whether it would be helpful in the matter of rooting out this evil. If it would be, I would respectfully urge that my motion may be accepted.

So far as the question of circulation is concerned I would be content as has been pointed out by the Honourable the Law Member that the opinions are received by the 31st July or by any date which might enable me to see that the Bill is passed in the next session of the Assembly.

Mr. Chairman: Does the Honourable Member mean that the consents to the Bill being circulated and does not press his motion for reference to a Select Committee?

Pundit Thakur Das Bhargava: I have already submitted that the Bill be referred to Select Committee and the opinions might come by the 31st July.

Mr. Chairman: Before I put the motion to the House, I find that Mr. Ananthasayanam Ayyangar has proposed that the name of Mrs. Ammu Swaminadhan be added to the list of names for the Select Committee.

The question is:

"That the name of Mrs. Ammu Swaminadhan be added to the list of members of the Select Committee."

The motion was adopted.

The question is:

"That the Bill further to amend the Child Marriage Restraint Act, 1929, be circulated for the purpose of eliciting public opinion thereon by the 31st July, 1947."

The motion was adopted.

INDIAN PENAL CODE AND THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

Pundit Thakur Das Bhargava: Sir, I beg to move:

"That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, be referred to a Select Committee consisting of Chaudhury Sri Chand, Lala Deshbandhu Gupta, Dr. G. V. Deshmukh, Mr. Sasanka Sekhar Sanyal, Sri Bhagirathi Mahapatra, Sri R. Venkatasubba Reddiar, Khwaja Nazimuddin, Khan Mohammad Yamin Khan, Syed Ghulam Bhik Nairang, Capt. G. T. B. Harvey and the Mover, with instructions to report by the 31st July, 1947, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, in regard to the Bill under consideration I beg to say, with your permission, a word or two about the history of this matter. It was in the year 1828 that a law was enacted by virtue of which a person committing rape on a girl of 18 years old or less was to be sentenced to death. Previous to that, according to the provisions of the Hindu Law, a man was liable to be sentenced to death for the offence of rape. There are certain provisions in the Code of Manu by which a person could be fined also for this offence. Thus the range of punishment was between death and fine. According to the provisions of the Islamic Law I understand that the punishment provided was death by stoning or 100 stripes.

In 1860 the law was changed and any person who committed rape on a girl of ten years or less was liable to be sent to ten years imprisonment. In 1891 there was a case known as the Hari Mohine Mythi case, in which the law was changed and the husband who committed rape on a girl was sentenced to imprisonment. In that year a law was passed and the age of the girl was enhanced from 10 to 12 years. There was a great agitation in the country and orthodox people stated that a husband had absolute right to the person of his wife and an innovation of this character went against their religion. But the Government in spite of the opposition passed the Bill and raised the age from 10 to 12.

In 1922 Bakshi Sohan Lall, a member from the Punjab brought in a Bill which was rejected by the House. In 1924 Dr. H. S. Gour brought in a Bill by which for intramarital rape the age was to be increased to 14 and for extra-marital rape the age raised to 16. This Bill had a chequered career. Two amendments were moved in this House and the House was of the opinion that generally speaking the ages of 16 and 14 were the proper ages for extra-marital and intra-marital rapes respectively. But the Government of the day thought that the opinion of the House was too much ahead of the times and by votes of the Government members the Bill was rejected.

[Pundit Thakur Das Bhargava.]

The Government brought in a Bill in 1925 by virtue of which the age of the girl was raised to 13 in regard to intra-marital cases. In 1927 Dr. Gour again brought in a Bill in which he wanted to raise the ages and it was in the course of this Bill that the Government was forced to appoint the Age of Consent Committee about which I have stated at length in my previous Bill. This Committee was appointed with the specific object of going into this matter and to find out how far the amendment of 1925 has changed the situation in the country for the better, how it has been received by the people and whether the law then existing was such as would be considered proper in the circumstances of the country. As this matter of the age of consent and the question about marriage were inter-connected the Committee had no option but to issue a questionnaire which involved practically the consideration of the provisions of both the Bills. As I have stated before you, this Committee took a long time. It was appointed on 25th June 1928, and at the end of May 1929, the Committee made its Report. Four members were sent from this House and there were 10 members in all. I do not want to read the names of the members, but if you kindly see them it would appear that some of them were very respectable members of society and were very experienced gentlemen. After examining about 400 witnesses and taking into consideration thousands of written statements, after examining the texts of Hindu and Muslim law, after hearing divines, after hearing ladies, after going to villages and finding the opinion of rural people, the Committee submitted its Report and the Report of the Committee was unanimous in recommending that in so far as extra-marital age is concerned the age may be increased to 18 years and in regard to intra-marital age the recommendation was that the age should be raised to 15 years. The present age, as I have already submitted, is 13 for intra-marital cases and 14 for extra-marital cases.

In regard to the provisions of the law relating to kidnapping and restoration of abducted women, the present position is that up till the age of 16 the law has given protection to these young girls. But the Committee suggested that the age of 16 be changed to 18, and the Committee made all these observations in their Report—the Age of Consent Committee Report.

Now, Sir, this Bill, as I have submitted for the consideration of the House, is based on the recommendations of that Committee with one or two alterations for which I myself gave a note of dissent at the time the Committee published its Report. Those alterations are not however of very great consequence, and as I proceed further I will have occasion to show why I want an alteration and have not based the entire Bill on the recommendations of this Committee. The entire Report proceeds on the assumption that there is pre-puberty consummation in this country and that soon after puberty consummation takes place which is always to the detriment of the girl and also to the detriment of the child if the consummation fructifies. The evidence of doctors was taken. Everything relevant was considered and the Committee came to the conclusion that before sixteen a girl was not fit to become a mother and before completion of the full age of fifteen she was not fit for consummation. These were mainly the definite conclusions which the Committee arrived at. My humble submission is that if any person doubts these postulates then we will be fighting on a principle which I for one think is the admitted principle of this Bill. If this Bill is accepted, if it is accepted that these are the two proper ages, I will humbly submit that we have got no other option but to make a law that these ages be regarded as good. While we are discussing the other Bill reference was made to the age of twelve being in existence. I will refer the House to Appendix X-A in which the age of consent of the various countries in the world is given and a perusal would

show that usually speaking, seventeen is the age of consent in other countries. We know that according to the opinion of the greatest living man in India the proper age for a girl is eighteen. As the Sarda Act was going on in the Assembly I sent a wire to Mahatma Gandhi to know his opinion about the marriageable age of man and woman and he gave his opinion that eighteen was the proper age for girls. It is true, that we could not go so far because of our deficiencies and our weaknesses. But the proper age according to medical science and according to the accepted principles is eighteen even now. When I suggest that fifteen may be taken I only say it is regarded as a safe age. If consummation takes place at that age then it is said by doctors that there will be no physical injury. I therefore submit that we have accepted in the particular circumstances of our country, in which child marriage was prevalent before, that fifteen be taken as the proper age for consent. I would submit that the alterations which I have made in this Bill are about the amount of punishment which I have proposed and the placing of the provisions of this new Bill in a particular place in the Indian Penal Code. According to the recommendations of the Age of Consent Committee one year should have been the proper punishment for any infraction of the rules relating to marriage, that is, if a husband had intercourse with the wife when she was between the ages of twelve and fifteen, according to the recommendations of the Committee one year should have been the punishment. I, Sir, have submitted for the consideration of the House that in my humble opinion two years is the proper punishment. I have given certain reasons for this in my note of dissent. With your permission, Sir, I will only read some four or five lines from that. I stated:

"In fact, this offence of 'marital misbehaviour' is so elusive that it can be confidently said that its prevention is certainly better than cure. All efforts therefore should be concentrated on the ways and means of prevent rather than punishing them who are guilty. When husband and wife are closetted together by their relations, or are allowed to come together, the chances are that the offence will be committed and no heed will be paid to convictions in courts. You may as well ask the fire not to burn and air not to dry than expect that crime will not be committed under these circumstances. Human nature cannot be taught asceticism by legislation or conviction. I therefore think that it ought not to be the policy of the law to seek to trace every infraction of the consent law and bring it to courts and for this purpose it ought not to authorise private complaints by all and sundry."

I believe that cases of infraction of this rule will not be brought to courts and I wish that no cases of infraction of these provisions were brought to courts because if an offending husband were arraigned before a court of law, the likelihood is, if he is convicted, there will be such bad blood between the two families, between the husband and wife that they will never come together. If the husband is sent to jail the wife will be regarded as the efficient cause for the husband being sent to jail. The wife will never tolerate this. She will always curse herself for being the efficient cause of her husband being sent to jail. I therefore think, and the Committee thought, that it ought not to be the policy that many cases of this kind came to court. I know that human experience will support me in this that it cannot be expected that the relations of the husband and the wife would take such cases to courts so that the ultimate contrivance for the stoppage of evil to which we can have recourse is that there may be a good and strong Marriage Law. In India until marriage takes place the man and woman do not come together ordinarily speaking. And when marriage has taken place, there is nothing which can prevent them from coming together. So, the real remedy lies in making the Marriage Law more stringent and strictly enforcing it. It is therefore that I have brought in the previous measure the circulation machine for which has just been adopted in this House. This is innovation No. 1 which I seek to make. Then the other point that I want to place before the House.....

Mr. Chairman: It is now past 5. Time is up and the Honourable Member can continue his speech on the next available day. The House will now adjourn.

Dr. Zia Uddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): On a point of order. I would like to request you whether you would permit those who have got Bills for introduction to move their motions. They will be simply introduced. This was done on a previous occasion.

Mr. Chairman: The House stands adjourned till tomorrow morning, 11 O'clock.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 3rd April, 1947.