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THE
LEGISLATIVE ASSEMBLY DEBATES
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Volume III, 1944
(28th March to 5th April, 1944)

TWENTIETH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1944



LEGISLATIVE ASSEMBLY

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Deputy President :

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Sardar SANT SINGH, M.L.A.

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

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LEGISLATIVE ASSEMBLY

Monday, 3rd April, 1944.

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

STARRED QUESTIONS AND ANSWERS

(a) ORAL ANSWERS

ARRIVAL OF AMERICAN GIRLS.

734. *Mr. K. S. Gupta: (a) Will the Foreign Secretary please state if it is a fact that thousands of American girls have arrived in India very recently?

(b) Is there any special object in their coming? If so, what is it?

(c) When and where did they arrive?

(d) Is there any invitation from the Government of India for their visit?

Sir Olaf Caroe: (a) No, Sir.

(b) A small number of nurses and American WACs have arrived for duties with the American forces.

(c) It is not in the common interest of the war effort to disclose the information.

(d) Does not arise.

Mr. Lalchand Navalrai: May I know what is meant by a small number?

Sir Olaf Caroe: A number that is not large.

Mr. Lalchand Navalrai: May I know if it is very small or very big?

Sir Olaf Caroe: It is neither very small nor very big.

ADMISSION OF INDIANS TO AMERICAN CITIZENSHIP.

735. *Mr. K. S. Gupta: (a) Is the Foreign Secretary aware that Senator Langer has introduced an amended resolution permitting all persons of Indian origin to become citizens and to permit a token quota of 75 to enter the United States of America annually?

(b) Is there any correspondence between the Governments of the United States of America and India directly or through the Agent General for India in America with regard to the above facts? If so, would it be placed on the table?

(c) In view of the proposed resolution for Senate, would the Government of India make a proper representation with regard to the entry and enjoyment of rights of citizenship for Indians in the United States of America in proportion to Americans who are now in India? If not, why not?

Sir Olaf Caroe: (a) No. A Bill has been introduced in the House of Representatives by Representative Emmanuel Celler of New York to permit of the objects stated by the Honourable Member.

(b) The answer to the first part of the question is 'Yes', and to the second part of the question is 'No'.

(c) No, since it would not be appropriate.

RECLASSIFICATION OF MYMENSINGH AS AREA B.

736. *Sir Abdul Halim Ghuznavi: Will the Secretary for Posts and Air please state:

(a) whether he is aware that, in view of the high cost of living, Mymensingh Town (Bengal) has been reclassified as B class area instead of C Class, with effect from the 1st October, 1939;

(b) whether he is aware that the late Major J. B. Kindersly, I.C.S., the then Commissioner of Dacca Division and Mr. J. H. E. Cook, the then Post Master General, Bengal and Assam Circle, recommended the equalisation of pay of the second grade clerical staff of Mymensingh with that of Dacca, granting B class area scale in view of higher cost of living in the Mymensingh Town;

(c) whether he is aware that, as a result of reclassification of the Mymensingh Town as B class area, some second grade clerks of Mymensingh have

sustained a permanent reduction of one rupee per month in pay instead of getting any increment of pay;

(d) whether he is aware that the second option granted under F. R. 23 to go back to the lower scale of pay *viz.*, C group, does not improve their condition;

(e) whether he is aware that in April, 1935, in refixing their pay in the revised scale, these second grade clerks of Mymensingh have been informed of a reduction of Rs. 9 per month in pay under paragraph 6(a) of the Department of Industries and Labour, Posts and Telegraphs Branch Memorandum No. ESA-130/33(2), dated the 11th March, 1935, and that no protection under F. R. 23 was granted to them at that time;

(f) whether he is aware that if the principles of the above-mentioned paragraph of the Government's order are given effect to, these officials are entitled to get an immediate increment in pay of Rs. 5 each per month;

(g) whether he is aware that representations to his address by aggrieved officials in order to secure redress of their grievances on this score were withheld by the Director General, Posts and Telegraphs, in February, 1943;

(h) whether he is aware that the clerks attached to the office of the Superintendent of Post Offices, Mymensingh, and the reserve clerks on deputation to Mymensingh H. O. from outside division are getting a monthly compensatory allowance of Rs. 5 while the same concession is being denied to the aforesaid permanent clerks; and

(i) whether he intends granting these clerks an immediate increment in pay of Rs. 5 each per month in addition to his announcement made on the 16th March, 1944, increasing the rates of dearness allowance to all Central Government employees and a special concession to employees of the Posts and Telegraphs Department, by issuing special orders or under F. R. 27 or in any other way? If not, why not?

Sir Gurunath Bewoor: (a) and (b). Yes.

(c) Yes, but the clerks concerned could have avoided the loss by exercising the option under F.R. 23 according to which they could elect to retain the "C" area scale of pay until they reached a stage at which the "B" area scale would cause no loss of pay.

(d) The intention of the second option under F.R. 23 was to protect from loss those officials in whose case the "B" area scale of pay entailed a temporary reduction of pay, though ultimately it offered them the benefit of a higher maximum.

(e), (f) and (g). On the eve of the introduction of the revised scales of pay, new entrants in the Department all over India, and not in Mymensingh alone, were allowed provisionally to draw pay in the old scales. The latter scale which was higher was withdrawn from the 1st April 1935, the date on which the revised scales of pay were introduced. As the higher scale was granted only provisionally, the question of application of F.R. 23 does not arise. Representations from certain officials to the address of the Government of India were received and withheld by the Director General in accordance with the rules for the submission and withholding of petitions.

(h) The concession of a compensatory allowance of Rs. 5 per month is admissible to officials deputed to a more expensive locality who retain their original (lower) scale of pay. It is not admissible to officials permanently employed in the locality on the higher scale of pay.

(i) The reply is in the negative. Government do not see any justification for granting any concessions under F.R. 27 or in any other form.

PERCENTAGE OF MUSLIM INSPECTORS IN SIND AND BALUCHISTAN POSTAL CIRCLE.

737. *Seth Yusuf Abdool'a Haroon: Will the Secretary for Posts and Air be pleased to state:

(a) the percentage of Muslims in the Inspectors Cadre of the Sind and Baluchistan Circle of the Posts and Telegraphs;

(b) the percentage of Muslims in the gazetted cadre in the same circle;

(c) the percentage of Muslims in the Superintendents cadres in the same circle; and

(d) whether, in view of inadequate representation of Muslims in the above cadres in the Sind and Baluchistan Circle, Government will make up the deficiency by nominating suitable Muslims of the department?

Sir Gurnath Bewoor: As on 1st March 1944, the position was as follows:

(a) 85.3 per cent.

(b) 20 per cent—but I may add that 50 per cent. are Anglo-Indian and 25 per cent. Hindu.

(c) 57.1 per cent.

(d) The posts referred to in part (a) are filled solely by promotion and those referred to in parts (b) and (c) are on All-India cadres. Postings and promotions are not made on communal grounds and consequently no question of making up deficiency arises.

Mr. Lalchand Navalrai: May I know if all the permanent Superintendents in Sind are Muslims?

Sir Gurnath Bewoor: I am unable to say, but five out of the present seven Superintendents are Muslims.

Maulvi Muhammad Abdul Ghani: May I know the percentage in Sind circle for Muslims under the Resolution of 1934?

Sir Gurnath Bewoor: That is for recruitment and not for postings. I am sorry I cannot remember the exact figure but I think it is about 56 per cent., though I am not sure.

Dr. Sir Zia Uddin Ahmad: In view of the reply that 35.5 per cent. are Muslims, how can all the permanent Superintendents be Muslims? How is that mathematically possible?

(No reply was given.)

STAFF CLERK OF KARACHI GENERAL POST OFFICE.

738. *Seth Yusuf Abdoola Haroon: Will the Secretary for Posts and Air be pleased to state:

(a) whether it is a fact that the Staff Clerk of the Karachi General Post Office has never been a Muslim; and

(b) if so, whether Government are prepared to give an undertaking that a suitable Muslim will be appointed as Staff Clerk in the Karachi General Post Office?

Sir Gurnath Bewoor: (a) No.

(b) Does not arise.

SUBORDINATE VACANCIES FILLED ON OUDH AND TIRHUT RAILWAY.

†739. *Mr. Muhammad Nauman: (a) Will the Honourable Member for Railways be pleased to state how many vacancies of subordinates with an initial pay of Rs. 30 and above were filled on the Oudh and Tirhut Railway during 1st April, 1942, to the 31st March, 1943, and again from 1st April, 1943, to the 15th January, 1944, either in permanent or temporary cadres?

(b) What was the communal composition of those recruited?

(c) Were those vacancies advertised? If not, why not?

The Honourable Sir Edward Bantall: (a) and (b). The information available to Government regarding recruitment on the O & T. Railway during 1942-43 is contained in Appendix CV to Volume II of the Report by the Railway Board on Indian Railways for 1942-43, a copy of which is in the Library of the House. No information is available regarding any subsequent period.

(c) The procedure of advertising vacancies was adopted only late in 1943 on the O. & T. Railway.

RECRUITMENT ON OUDH AND TIRHUT RAILWAY IN OFFICERS' GRADE.

†740. *Mr. Muhammad Nauman: (a) Will the Honourable Member for Railways be pleased to state the number of recruitment made on the Oudh and Tirhut Railway in officers grade equal in status to Senior Gazetted Service in financial years 1940-41, 1941-42 and 1942-43?

(b) Were these appointments made by any selection board, and were these vacancies advertised?

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

(c) What was the communal composition of those who were recruited in these years?

The Honourable Sir Edward Benthall: (a) and (c). Information available to Government is contained in Appendix CV to Vol. II of the Railway Board's Report on Indian Railways for the years 1940-41, 1941-42 and 1942-43, copies of which are in the Library of the House.

(b) I have called for information and a further reply will be laid on the table of the House.

SENIORITY OF CERTAIN GUARDS IN HOWRAH DIVISION, EAST INDIAN RAILWAY.

741. *Maulana Zafar Ali Khan: (a) Is the Honourable Member for Railways aware of the fact that in the Howrah Division, East Indian Railway, during the period from November, 1943, to March, 1944, B Class Guards who were confirmed in the years 1942 and 1943 were called for selection as A Class Guards, in preference to those B Class Guards who were absorbed as B Class Guards in the year 1936-37?

(b) If the reply to part (a) is in the negative, what was the position of B Class Guards on the seniority list who were called for selection to posts of A Class Guards during November, 1943 to March, 1944?

The Honourable Sir Edward Benthall: (a) No.

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

MEMORIAL OF B CLASS GUARDS OF HOWRAH DIVISION FOR FIXATION OF PAY, ETC.

742. *Maulana Zafar Ali Khan: (a) Will the Honourable Member for Railways be pleased to state the action taken on the memorials about the fixation of pay and position on the seniority list submitted by the B Class Guards of the Howrah Division, East Indian Railway, to the Honourable Member in the year 1943, copies of which were also sent to the General Manager and the Divisional Superintendent, East Indian Railway, Howrah?

(b) Is it a fact that the Divisional Personal Officer, Howrah, interviewed some Guards in connection with those memorials?

The Honourable Sir Edward Benthall: (a) No action was taken by Government as the memorial was not received through the proper channel.

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

SENIORITY OF CERTAIN GUARDS IN HOWRAH DIVISION, EAST INDIAN RAILWAY.

743. *Maulana Zafar Ali Khan: (a) Is the Honourable Member for Railways aware of the fact that the services of the B Class Guards in the Howrah Division, East Indian Railway, absorbed as Guards in the years 1936 and 1937 were not counted towards seniority and increments?

(b) If the reply to part (a) is in the affirmative, what were the rules applied to the cases of those Guards?

The Honourable Sir Edward Benthall: (a) No.

(b) Does not arise.

PREPARATION OF FRESH SENIORITY LIST OF GUARDS IN HOWRAH DIVISION.

744. *Maulana Zafar Ali Khan: Is the Honourable Member for Railways aware of the fact that the seniority list of Guards in the Howrah Division, East Indian Railway, is again being prepared without taking into consideration the grievances of the B Class Guards regarding seniority, which were represented to the Divisional Personal Officer, Howrah?

The Honourable Sir Edward Benthall: No.

SENIOR B CLASS GUARDS IN HOWRAH DIVISION.

745. *Maulana Zafar Ali Khan: Will the Honourable Member for Railways be pleased to state whether the senior B Class Guards in the Howrah Division, East Indian Railway, who were not called for selection to the posts of A Class Guards during the period from November, 1943 to March, 1944, were declared unsuitable by any competent authority?

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

RECRUITMENT OF INFERIOR STAFF IN ENGINEERING AND MECHANICAL DEPARTMENTS OF EAST INDIAN RAILWAY.

746. *Hajee Chowdhury Muhammad Ismail Khan: (a) Is the Honourable Member for Railways aware of the fact that in the Engineering and Mechanical Departments on the Bengal and Assam Railway, inferior staff were not recruited according to the percentage fixed by the Railway Board during the period from 1940 to 1944?

(b) If the reply to part (a) is in the negative, what was the number of inferior staff, community-wise, recruited during the said period in temporary and permanent capacities?

The Honourable Sir Edward Benthall: (a) No.

(b) I have called for information and a reply will be laid on the table of the House in due course.

NON-POSTING OF MUSLIMS IN E. I. (B) SECTION OF THE PERSONNEL BRANCH, BENGAL AND ASSAM RAILWAY.

747. *Hajee Chowdhury Muhammad Ismail Khan: (a) Is the Honourable Member for Railways aware of the fact that in the E. I. (B) Section of the Personnel Branch of the Bengal and Assam Railway, Muslims were never posted or recruited in temporary or permanent capacities during the period 1939 to 1943?

(b) If the reply to part (a) is in the negative, what is the number of Muslims who were kept in that Section during the said period?

The Honourable Sir Edward Benthall: (a) No.

(b) I have called for the information and a reply will be laid on the table of the House in due course.

Mr. Lalchand Navalrai: Why are not the answers ready in these cases? Were notices not received in time or the Honourable Member was too busy?

The Honourable Sir Edward Benthall: No, Sir. The questions were admitted on or about the 28th March in most of these cases, and information has been called for. I would remind the Honourable Member that the Bengal and Assam Railway is extremely busy at the moment with traffic for operational purposes and the Railway must be excused if we cannot get information exactly in time.

CLERICAL STAFF IN PERSONNEL AND ADMINISTRATIVE OFFICES OF BENGAL AND ASSAM RAILWAY.

748. *Hajee Chowdhury Muhammad Ismail Khan: Will the Honourable Member for Railways be pleased to state the number of clerical staff, community-wise, in the Personnel and Administrative Offices of the Bengal and Assam Railway who have been promoted to Inspectors (excluding Food Inspectors) and Lower Gazetted Service posts, during the period from 1939 to 1944?

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

WATCHMEN ON BENGAL AND ASSAM RAILWAY.

750. *Hajee Chowdhury Muhammad Ismail Khan: (a) Will the Honourable Member for Railways be pleased to state the number of Muslims and non-Muslims employed as literate and illiterate Watchmen on the Bengal and Assam Railway during the period from 1940 to 1944?

The Honourable Sir Edward Benthall: I regret I cannot undertake to collect such details under present conditions.

STAFF ENGAGED IN CONSTRUCTION DEPARTMENT, BENGAL AND ASSAM RAILWAY.

750. *Hajee Chowdhury Muhammad Ismail Khan: (a) Will the Honourable Member for Railways be pleased to state the number of men, community-wise and grade-wise, engaged in the Construction Department on the Bengal and Assam Railway during the period from 1942—1944?

(b) Is it a fact that no effort was made to get Muslims through advertisements?

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

ESTABLISHMENT BRANCH MUSLIM CLERKS IN HOWRAH DIVISION NOT ALLOWED TO DEAL WITH CERTAIN STAFF CASES.

†751. ***Mr. Muhammad Hussain Choudhury:** Is the Honourable Member for Railways aware of the fact that the Divisional Personnel Officer and the Assistant Personnel Officer, No. I Howrah Division, East Indian Railway, recklessly put down the claims of efficient and experienced Muslim clerks to deal with the following categories of staff on the introduction of the re-organization of the Establishment Branch in May, 1943, and selected exclusively non-Muslim clerks with less experience in staff matters or punished for indifferent working during their previous service:

- (i) Divisional Superintendent Office Staff.
- (ii) Guards, Assistant Station Masters, Station Masters, Relieving Assistant Station Masters, Controllers, Yard and Assistant Yard Masters,
- (iii) Commercial Staff including Howrah Goods,
- (iv) Ticket Checking and Collecting, and
- (v) Loco.?

The Honourable Sir Edward Benthall: With your permission, Sir, I propose to reply to questions 751, 752 and 753 together.

The reply is in the negative.

VACANCIES FILLED BY NON-MUSLIM CLERKS IN THE ESTABLISHMENT BRANCH OF THE OFFICE OF DIVISIONAL SUPERINTENDENT, HOWRAH.

††752. ***Mr. Muhammad Hussain Choudhury:** Is the Honourable Member for Railways aware of the fact that in the Staff Section of the Establishment Branch of the office of the Divisional Superintendent, East Indian Railway, Howrah, vacancies were exclusively filled by non-Muslim clerks from the Pay Bill Section after reorganisation in May, 1943?

EFFICIENCY TEST FOR HIGHER GRADES IN THE ESTABLISHMENT BRANCH OF THE OFFICE OF DIVISIONAL SUPERINTENDENT, HOWRAH.

††753. ***Mr. Muhammad Hussain Choudhury:** Is the Honourable Member for Railways aware of the fact that clerks who were promoted to higher grades without any test on the eve of the reorganization of the Establishment Branch of the office of the Divisional Superintendent, East Indian Railway, Howrah, in May, 1943, are now required to undergo the efficiency test of Leave Rules Examination?

MUSLIM APPLICANTS FOR SELECTION AS LAW INSPECTORS ON EAST INDIAN RAILWAY.

†754. ***Mr. Muhammad Hussain Choudhury:** (a) Is the Honourable Member for Railways aware of the fact that Muslims with requisite qualifications for the posts of Law Inspectors advertised by the East Indian Railway in the year 1944 were not even called for selection?

(b) If the reply to part (a) is in the negative, what were the qualifications of Muslim candidates from Bhagalpur (Bihar) who were not called for selection?

(c) Is it a fact that their representation against the action of the General Manager was not even entertained?

(d) Is it a fact that they possessed better qualifications than those called for selection?

The Honourable Sir Edward Benthall: (a) In view of the large number of applications, a selection was made of those who were considered the best qualified among the applicants and they were called for interview. Nineteen of these were Muslims.

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

(c) The Railway received no such representation.

(d) No, as the Railway selected for interview those whom it considered best qualified.

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

†† For answer to this question, see answer to question No. 751.

ARREST OF S. JIT SINGH SAHNI.

755. *Sardar Mangal Singh: Will the Foreign Secretary please state :

(a) whether it is a fact that S. Jit Singh Sahni was arrested in August, 1942, in Baluchistan and was later on externed from the Province in February, 1943; and

(b) whether, in view of the fact that he has thereby suffered a great loss in his business, Government will now reconsider his case and withdraw the restrictions imposed on his entry into Baluchistan?

Sir Olaf Caroe: (a) Yes, Sir.

(b) Information available to Government does not support the suggestion that Jit Singh Sahney has suffered any considerable loss by reason of his externment. It is of course open to him to submit an application to the Local Administration for withdrawal of the order, and Government have no doubt that such application would be considered on its merits.

STAFF IN RAILWAY CLEARING ACCOUNTS OFFICE, DELHI.

756. *Mr. Amarendra Nath Chattopadhyaya: (a) Will the Honourable Member for Railways be pleased to state the total strength of the staff (including officers) in the Railway Clearing Accounts Office, Delhi, on the 31st December, 1938 and 31st December, 1943, separately?

(b) What was the number of typists on the above two dates?

(c) If the reply to part (a) shows a considerable increase in the strength of the above named office between the years 1938—1943, was some addition also made in the strength of the typists, in view of the increase in staff?

(d) If the reply to part (c) is in the negative, why were not more typists appointed, in view of the increase in their work?

(e) Will the Honourable Member kindly say if he now proposes to appoint more typists? If not, why not?

The Honourable Sir Edward Benthall: (a) The total strength of the staff (including officers) in the Railway Clearing Accounts Office, Delhi was 1,155 on 31st December 1938 and 1,842 on 31st December 1943.

(b) The number of typists on both dates was eleven. Two additional posts of typists were sanctioned in December 1943. They were utilised from 14th January 1944.

(c) No.

(d) The increase in the work was met by administrative arrangements which reduced the work of the typists.

(e) As mentioned against (b) above two extra posts of typists have already been sanctioned.

RUSH OF WORK AT THE IMPERIAL SECRETARIAT NORTH BLOCK POST OFFICE, NEW DELHI.

757. *Mr. K. S. Gupta: Will the Secretary for Posts and Air please state :

(a) whether the Government are aware that there is always a great rush of work at the Imperial Secretariat, North Block Post Office, at New Delhi owing to the increase in the number of offices in tents and hutments round about North Block;

(b) whether Government are aware that the offices of the Broadcasting House in the Parliament Street, New Delhi, are also served by this Post Office; and

(c) whether Government would consider the advisability of opening a whole-time and full fledged Post Office in the Council House, New Delhi, for removing the great congestion of work in the North Block Post Office? If so, when; if not, why not?

Sir Gurunath Bewoor: (a) Yes.

(b) No. The offices of the All-India Radio are served by the New Delhi Post Office.

(c) No. The Council House Post Office is essentially for the use of the Members of the two Houses of Legislature. The North Block Post Office is adequately staffed to cope with the increased work.

TRANSFER OF CONTROL OF PAPER PRODUCTION AND PURCHASE TO SUPPLY DEPARTMENT.

753. *Mr. T. T. Krishnamadhar: Will the Honourable the Supply Member be pleased to state:

(a) whether it is a fact that control of paper production and purchase has been transferred to the Supply Department from the Industries and Civil Supplies Department;

(b) whether about the same time a new officer has been appointed to the post of Controller of Paper Production and Purchase about the time of the transfer of this portfolio to the Supply Department;

(c) if the answer to (b) is in the affirmative, what happened to the officer who was in charge all along;

(d) if the answer to (b) is in the affirmative, whether the appointment was made on the recommendation of the Federal Public Service Commission and whether any advertisement was published in the press calling for applications before this officer was selected;

(e) the qualifications possessed by this officer;

(f) whether the post requires any technical qualifications; and

(g) whether the officer that has been appointed is not a national of this country?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: (a) The responsibility for the production and purchase of paper has been transferred to the Supply Department from the 1st April, 1944. Prior to this date, purchase was the responsibility of the Labour Department, and production that of the Industries and Civil Supplies Department.

(b) Yes.

(c) The post of Paper Production Commissioner under the Industries and Civil Supplies Department has been abolished with effect from the 31st March 1944. The Supply Department is however, using the services of the last incumbent of this post part-time as Paper Adviser.

The post of Controller of Printing and Stationery under the Labour Department continues to exist.

(d) No.

(e) Prior to his joining the Supply Department the officer was a Director of Messrs. F. D. Sassoon and Co., Ltd., Bombay. Earlier, he was General Manager of the various Sassoon interests in China and also a Director of the E. D. Sassoon Bank in Hongkong.

(f) Technical qualifications are not essential.

(g) The officer appointed is a naturalised British subject.

Dr. Sir Zia Uddin Ahmad: May I ask what are the conditions contemplated in this transfer?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: The procurement of paper has become a war necessity and that the Supply Department having both the planning officers to plan the production and the essential staff to look to the industrial side of it, namely the requirements of the industry with reference to machines and other things, it was considered desirable to transfer it to the Supply Department.

Dr. Sir Zia Uddin Ahmad: When the responsibility for the production and purchase of paper was that of the Labour Department, they considered the requirements of the civil population, and particularly the requirements of the Universities which are really the consumers of large quantities of paper on account of examinations. May I know who will look after the requirements of the civil population, and particularly of Universities?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: The Industries and Civil Supplies Department is working in close co-operation with the Supply Department in regard to the allotment of paper and by mutual arrangement a certain percentage is set apart for the civil needs including that of the Universities.

Dr. Sir Zia Uddin Ahmad: May I know if the rules already framed for the supply of paper to the Universities will continue to function?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: I do not know what rules have been framed.

Dr. Sir Zia Uddin Ahmad: The Universities are given certain quotas by the Civil Supplies Department. Will these quotas remain in tact?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: Most certainly.

Mr. T. T. Krishnamachari: May I ask the Honourable Member to tell the House how the Honourable Member or his Department came to choose this particular officer who was in commercial employment?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: We have a list of officers who can be spared from the various business concerns from time to time. We are constantly on the look out for such officers to be put in charge of work concerning various industries.

Dr. Sir Zia Uddin Ahmad: The Civil Supplies Department has appointed several experts in connection with the distribution of paper. May I know whether those people will continue to work in that Department or whether they will be transferred to the Supply Department? If not, will the Supply Department appoint new officers?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: So far as the civil consumers are concerned, the distribution of the quota which is allotted to the civil side will be entirely in the discretion of the Civil Supplies Department, and its distribution will be arranged by officers employed by the Civil Supplies Department.

Dr. Sir Zia Uddin Ahmad: Will the same officers continue to function?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: I cannot answer that question; that should be addressed to my colleague, the Honourable Member for Civil Supplies.

Mr. T. T. Krishnamachari: May I ask the Honourable Member if amongst the number of names this Department was furnished with, he could not find a single suitable Indian to fill the post?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: No, Sir. I regret to say I could not.

REORGANISATION OF WHARF AND YARD STAFF.

759. *Seth Yusuf Abdoola Haroon: Will the Honourable Member for Railways be pleased to state:

(a) if it is a fact that there is a move to form one unit of Wharf and Yard Staff and bring them under one seniority to regulate the promotion, etc., of the staff in different grades of these two different units;

(b) if it is a fact that the Wharf and Yard Staff placed their case before the Agent (now General Manager), Lahore;

(c) if it is a fact that the Agent conveyed the following decision, *vide* his letter No. 757-E/76, dated the 20th July, 1932:—

“I beg to inform you that on reconsideration it has been decided that the Yard and Wharf Staff, will, in future, be kept distinct from each other and borne on separate seniority list”;

(d) if the answer as to the decision of the Agent stated in (c) be in the affirmative, whether the authorities have now finally dropped their idea of forming one unit of Wharf and Yard Staff; if not, why not?

(e) if it is a fact that the memorialists have asked for the revision of Grade IV Supervisor in the scale of Rs. 200—10—250, which was brought under reduction in 1935, so as to bring it on a par with the sanction as it stands in the yards cadre;

(f) if it is a fact that the work of the Wharf and Yard Staff has increased eight to ten times that of the pre-war times, and that the establishment has been increased to two lacs extra on account of Wharf work; and

(g) if the answer to the above be in the affirmative, why the grades have not been revised and promotions and increments effected?

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

REGISTER MAINTAINED FOR PROMOTION OF TELEGRAPHS LINEMEN TO SUB-INSPECTORS' GRADE.

760. *Seth Yusuf Abdoola Haroon: (a) Will the Secretary for Posts and Air please state whether for promotion of Linemen to Sub-Inspector's grade the Sub-Divisional Officer, Telegraphs, is required to maintain a register showing qualifications and other particulars of the Linemen? If so, is any check exercised regarding the correctness of the information recorded therein by the Sub-Divisional Officer, Telegraphs?

(b) Is the Honourable Member aware that a Sub-Divisional Officer, Telegraphs, Lahore Sub-Division, recorded in such a register incorrect information declaring illiterate officials of his own community as literate and literate officials of the other community as illiterate?

(c) Is it a fact that cases were brought to the notice of his successor that wrong particulars had been recorded in this register, and on investigation the particulars recorded therein were actually found to be incorrect and on thorough re-examination whole-sale changes had to be made in the register reversing the original position of persons irregularly promoted? If so, has any action been taken against the officer who was responsible for such gross and deliberate misrepresentation of facts? If not, why not?

(d) Has the Posts and Telegraphs Department prescribed minimum qualifications and minimum conditions of service and physical fitness for appointment of officials to Telephone Inspectors cadre after giving them a course of training at Calcutta?

(e) Is it a fact that officials who have not even been given the requisite training in Calcutta have been appointed as Telephone Inspectors in the Lahore Engineering Division in preference to trained officials? If so, why?

(f) Is it not a fact that for Telephone Inspector's job, which requires hard outdoor duties, a certain standard of physical fitness is required?

Sir Gurnath Bewoor: (a) Yes.

(b), (c) and (e). The facts are substantially correct. A report of the action taken by the Postmaster-General is being called for.

(d) Yes, except that no minimum standard of physical fitness has been prescribed and that the training is now given at Jubbulpore.

(f) The question is under consideration.

***OFFICERS OF CLASS I, ETC., GRANTED EXTENSIONS OF SERVICE IN POSTS AND TELEGRAPHS AND METEOROLOGICAL DEPARTMENTS.**

761. *Maulvi Muhammad Abdul Ghani: Will the Secretary for Posts and Air be pleased to state:

(a) the number of officers in class I, II and III Services under the Posts and Telegraphs and Meteorological Departments who were granted extensions in their services in the years 1940 and 1941;

(b) the number of persons selected (i) directly, and (ii) departmentally; as

- (1) Telegraphists,
- (2) Telegraph Masters,
- (3) Engineering Supervisors, and
- (4) Wireless Operators;

during 1942 and 1943, and the number of Muslims under each head; and

(c) the number of Gazetted posts filled by (i) departmental promotions, and (ii) by direct appointment during 1942 and 1943, and the number of Muslims thereof?

Sir Gurnath Bewoor: (a) to (c). Sir, I lay on the table three statements giving the information called for.

Statements.

	Number of extension granted in			
	1940		1941	
	Class I	Class II	Class I	Class II
P. and T. Deptt.	2	..	4	2
Meteorological Department	Nil.			

NOTE.—There are no Class III officers in the P. and T. or Meteorological Departments.

	1942		1943	
	Total Recruitment.	Number of Muslims.	Total Recruitment.	Number of Muslims.
	Deptl.	Outside.	Deptl.	Outside.
Telegraphists	34	123	5	57
Telegraph Masters	60	..	..	54
Engineering Supervisors	4	47	..	4
Wireless Operators	..	24	..	1
				70
				210
				7
				42
				2
				120
				2
				22

NOTE.—There is no direct recruitment to the grade of Telegraph Masters and communal reservation rules do not apply to posts filled by promotion.

Year.	Number of gazetted posts filled by deptl. promotions.		No. of gazetted posts filled by direct appointments.	
	Total.	Muslims.	Total.	Muslims.

1942	{ P. & T. Deptt.	38	2	10	4
	{ Meteorological Deptt.	29	3	32	2
1943	{ P. & T. Deptt.	30	2	4	..
	{ Meteorological Deptt.	12	0	27	5

NOTE.—The figures given are in respect of substantive appointments made in permanent posts in the lowest gazetted grades to which recruitment is made by promotion from non-gazetted grades or by direct recruitment.

NORTH-WESTERN RAILWAY CONTRACT FOR STORAGE OF LIQUID FUEL AT KIAMAR.

762. *Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state whether the North Western Railway Administration has a contract for storage of liquid fuel used in locomotives at Karachi with some firms having stationary tanks at Kiamari? If so, what was the total quantity of oil stored and hire charges paid during the financial years 1939-40, 1940-41, 1942-43, and 1942-43?

(b) What would be the cost of constructing Railway's own stationary tank or tanks at Kiamari for the storage of oil fuel?

The Honourable Sir Edward Benthall: (a) Part 1—Yes.

Part 2.—The information asked for is not available. The time and labour involved in its collection would not be justified in wartime.

(b) The present day cost is not available, and will in any case be abnormally high.

TRANSFER OF OFFICERS FROM OTHER RAILWAYS TO NORTH WESTERN RAILWAY.

763. *Mr. Lalchand Navalrai: (a) With reference to the Honourable the Railway Member's reply to parts (a), (d) and (e) of my starred question No. 108, asked on the 14th February, 1944, in regard to transfer of officers from other Railways to the North Western Railway, will the Honourable Member be pleased to state whether it is a fact that the post of Deputy Chief Engineer, Signals, fell vacant on the North Western Railway temporarily previous to its permanent vacancy? If so, was any officer imported from some other Railway? If not, how was this post filled then?

(b) If the reply to the last portion of part (a) above be that it was locally filled from the North Western Railway, why was not the same arrangement followed on the occurrence of the permanent vacancy, since the seniority of officers on different Railways was separate?

(c) Did the General Manager, North Western Railway, protest against the importation of an officer from the foreign Railway? If so, will the Honourable Member please lay a copy of his protest on the table of the House?

(d) What was the public interest which necessitated the transfer of an officer from the East Indian Railway to the North Western Railway to fill the appointment of the Deputy Chief Engineer, Signals?

(e) Is it not a fact that two officers were transferred from the East Indian Railway one after the other, to hold the post of Deputy Chief Engineer, Signals, on the North Western Railway, when the first officer was deputed to Military duty? If so, how does the Honourable Member reconcile his statement that only one officer was transferred from the East Indian Railway?

(f) What steps do Government propose to take to stick to the principle of separate seniority for these officers and promotion on their own Railways, as approved by the Secretary of State for India? If not, why not?

The Honourable Sir Edward Benthall: (a) There was a short leave vacancy in the post of Deputy Chief Engineer, Signals, N. W. Railway, in 1941. This was filled by making local arrangements.

(b) I would refer the Honourable Member to the reply to part (a) of his starred question No. 108 asked in the Legislative Assembly on the 14th February 1944.

(c) No. The latter part does not arise.

(d) The selection of the most suitable officer to fill the post.

(e) No, only one officer was actually transferred as the other was on military duty.

(f) The principle referred to by the Honourable Member is in force except when it is in the public interest to transfer an officer from another Railway.

Mr. Lalchand Navalrai: Was that officer, who was working in the military, also brought from another Railway?

The Honourable Sir Edward Benthall: Yes, Sir.

Mr. Lalchand Navalrai: Then may I take it that two officers were brought?

The Honourable Sir Edward Benthall: No, Sir. One officer is already with the military and if he reverts from military service the other officer will revert to his Railway.

LABOUR UNREST IN KARACHI PORT TRUST.

763A. *Seth Yusuf Abdoola Haroon: (a) Will the Honourable Member for War Transport please state if his attention has been drawn to the memorandum issued by Kazi Mohamed Mujtaba, General Secretary, Sind Provincial Trade Union Congress, under the heading "A few facts about the labour unrest in Karachi Port Trust"?

(b) Is it a fact that 2,384 workers of the Karachi Port Trust have demanded the appointment of an adjudicator to look into their demands?

(c) Is it a fact that the Labour Welfare Officer of the Government of India had made certain recommendations after his visit to Karachi in July, 1943?

(d) If the reply to the above is in the affirmative, what action have Government taken or propose to take in the matter?

The Honourable Sir Edward Benthall: (a), (c) and (d). I would refer the Honourable Member to the reply I gave to parts (a), (d) and (e) of his starred question No. 684 on the 29th March 1944.

(b) A representation purporting to contain signatures and thumb impressions of a number of workers of the Karachi Port Trust asking for the appointment of an adjudicator was received.

Mr. Lalchand Swaraj: May I know from the Honourable Member what is the trouble about and why these people have been asking for some relief and for the appointment of an adjudicator?

The Honourable Sir Edward Benthall: There are a number of points which, as I have already replied, are under consideration.

Mr. N. M. Joshi: May I ask whether the Government of India have sent some officer to Karachi to enquire into the matter, and, if so, what is his report?

The Honourable Sir Edward Benthall: An officer has recently been in Karachi and his report is under consideration.

Seth Yusuf Abdoola Haroon: When is that report expected to be placed before the public?

The Honourable Sir Edward Benthall: Sir, it will not be placed before the public.

UNSTARRED QUESTIONS AND ANSWERS.

REFUSAL OF PERMISSION TO GWALIOR AND NORTHERN INDIA TRANSPORT COMPANY TO RUN PETROL BUSES BETWEEN DELHI AND SHAHDARA-DELHI.

234. Mr. Kailash Bihari Lal: Will the Honourable Member for War Transport please state the reasons the Motor Transport Authority, Delhi, has for not allowing the Gwalior and Northern India Transport Company, Limited, to run "petrol motor buses" between Delhi and Shahdara instead of "diesel oil motor buses"?

The Honourable Sir Edward Benthall: Because diesel oil motor buses adequately serve the requirements of the public and petrol must be conserved.

GAZETTED OFFICERS ON RAILWAYS CHARGED WITH CORRUPTION, ETC.

235. Mr. Kailash Bihari Lal: Will the Honourable Member for Railways please state the number of Gazetted Officers on the State-managed and Company managed Railways, separately, who were charged with offences of corruption and bribery, tried and convicted during the preceding three years? If not, why not?

The Honourable Sir Edward Benthall: On State Managed Railways, upto the 31st December, 1943, no such cases have occurred, except that it is intended to prosecute one officer; Government do not have full details concerning Company-Managed Railways, but are aware that one officer is under trial.

EYE TEST FOR TRAVELLING TICKET EXAMINERS ON EAST INDIAN RAILWAY.

236. Mr. Kailash Bihari Lal: With reference to the information given on the 7th February, 1944 (page 50 of the Debates), in reply to unstarred question No. 44, asked on the 19th November, 1943, regarding eye test for Travelling Ticket Examiners on the East Indian Railway, will the Honourable Member for Railways please state the result of the consideration of the question? If no result has yet been arrived at, by what period is it to be expected?

The Honourable Sir Edward Benthall: The Inspectors of Travelling Ticket Examiners have now been classified as C1 for purposes of vision test. The other parts do not arise.

PRESSURE OF WORK IN RAILWAY CLEARING ACCOUNTS OFFICE, DELHI.

237. Mr. Ananga Mohan Dam: (a) Will the Honourable the Railway Member please state if it is a fact that the clerical staff in the Railway Clearing Accounts Office is always burdened with overwork, is required to sit late in the office and also attends office on most of the holidays and Sundays?

(b) Is it a fact that in many cases the staff cannot be given the benefit of compensatory holidays due to the great volume of work? If the reply is in the negative, what is the number of clerks who could not be given compensatory holidays for attendance on holidays during the last six months?

(c) Is it a fact that the supervisory staff in that office (specially the Sub-heads) is also overloaded with work?

(d) If the replies to (a) and (c) above are in the negative, may it please be stated for how many extra (i) clerks, (ii) Sub-heads, and (iii) Accountants has sanction been recently asked for, and for what purpose. (Figures may please be furnished by Sections)?

The Honourable Sir Edward Benthall: (a) No, but owing to the inexperience of some of the staff, other members of the staff have to work harder, and occasionally attend on holidays to deal with urgent work.

(b) Yes, there has been difficulty in giving compensatory holidays to some men. 554 clerks could not get the compensatory leave due to them during the last six months. On an average each clerk lost one day's compensatory casual leave in these six months.

(c) Yes, to some extent. Sanction has recently been given to additional staff required to deal with the increased work.

(d) A statement is attached. It shows the number of posts sanctioned recently for the different sections by grades. The extra posts have been sanctioned to meet pressure of work and to raise the standard of efficiency within the office.

Statement showing detail of sanction received from Railway Board vide letter No. 48AcII/43 dated the 23rd March 1944.

Name of Section.	Number of posts by grades sanctioned by the Railway Board.						Total.
	Junior Acctt.	Senior Grade Sub-heads.	Sub-heads.	Clerks.			
				Class I.	Class II.	Routine Clerks.	
1. Military and Miscellaneous .	3	3	21	29	200	—58*	198
2. Coaching 'A' (Passenger and Luggage) . . . . .	..	..	..	8	26	3	37
3. Coaching 'B' (Parcels) . . . . .	..	..	..	11	51	..	62
4. Efficiency . . . . .	..	..	..	2	2	..	4
5. General . . . . .	..	..	..	..	2	4	6
6. Goods . . . . .	..	..	..	—4	—32	—1	—37
7. Supervisory staff for Goods and Coaching	4	2	18	..	..	..	24
Total	7	5	39	46	249	—52	294

*By up-grading to posts of Clerks Class II.

ADDITIONAL STAFF EMPLOYED IN RAILWAY CLEARING ACCOUNTS OFFICE.

238. Mr. Ananga Mohan Dam: Will the Honourable Member for Railways please state how many new men have been employed each month since January, 1943, in the Railway Clearing Accounts Office? How many of the new men resigned after serving for few days and few months? Were men appointed immediately in their places? If not, how was the shortage of staff met?

The Honourable Sir Edward Benthall: The information required in the first two parts of the question is given in the attached statement.

With regard to the third part the answer is in the negative but efforts were made to engage substitutes as early as possible.

The shortage was not entirely met by new recruitment. Although the staff worked hard the shortage of men did result in the accumulation of some arrears.

Statement showing the number of new men employed and the number resigned or discharged out of the newly appointed persons.

Serial No.	Month.	Number of new men employed.	Number resigned or discharged.	
			After a few months.	After a few days.
1	January 1943	18	15	7
2	February 1943	52	26	
3	March 1943	114	22	3
4	April 1943	16	7	4
5	May 1943	30	7	2
6	June 1943	38	20	3
7	July 1943	35	16	6
8	August 1943	6	23	3
9	September 1943		13	1
10	October 1943	83	15	
11	November 1943	82	16	3
12	December 1943	49	10	7
13	January 1944	102	16	9
14	February 1944	31	18	
15	March 1944	15	2	1
Total		671	226	49
			275	

EXISTENCE OF HIGH-POWER SULPHURIC ACID FACTORY NEAR RAILWAY CLEARING ACCOUNTS OFFICE AT DELHI KISHENGANJ.

239. Mr. Ananga Mohan Dam: (a) Will the Honourable the Railway Member please state whether a high power sulphuric acid factory is working close to the Railway Clearing Accounts Office building at Delhi-Kishenganj?

(b) Is it a fact that during the last twelve months several representations have been made by the Railway Clearing Accounts Office Association and staff that the nearness of the factory has seriously endangered the health of the staff working in that building, and that they have always been told that its removal from there is under consideration?

(c) Is it a fact that some days ago the entire staff came out of the building when acid vapours and smoke had covered the whole area, and that they had to remain out for about 1½ hours?

(d) What steps is the Honourable Member taking for the immediate removal of the factory from its present location?

The Honourable Sir Edward Benthall: (a) Yes.

(b) Yes.

(c) No. A few members of the staff did leave the hall for a few minutes but resumed their seats as the trouble was not serious.

(d) As the factory authorities failed to observe undertakings to carry out certain operations only at night, the General Manager, North Western Railway, has served the firm with a notice to remove the Acid Factory from the present site and it is expected that the Factory will be removed within a short period.

FIXATION OF LOWER PAY FOR GRADE I GUARDS IN KARACHI DIVISION, NORTH WESTERN RAILWAY, ON ABOLITION OF THAT GRADE.

240. Mr. Lalchand Navalrai: (a) With reference to the Honourable the Railway Member's reply to part (a) of my starred question No. 312, asked on the 19th November, 1943, to which a reply was laid on the table of the House on the 7th February, 1944, will the Honourable Member be pleased to state what those specific rules are in accordance with which the pay of grade I Guards on transfer to stationary posts was fixed at Rs. 36?

(b) Is it not a fact that the rules contained in the Agent's Circular 1 of 1927, Part (C), provided for a Guard to receive pay plus 75 per cent. of pay as mileage

allowance, while working on a stationary post? If so, why is differential treatment made now?

(c) What is the correct position in regard to seniority and fixation of pay in regard to running staff, when being fixed in a stationary appointment? Does the mileage allowance count? If not, why not?

The Honourable Sir Edward Benthall: (a) Paragraph 2017 (a) (1) of the State Railway Establishment Code, Vol. II.

(b) The rule referred to by the Honourable Member applies when a Guard is working temporarily in a stationary appointment. It does not apply to permanent promotion.

(c) Guards have their seniority fixed for promotion to posts of Assistant Station Masters after taking into account mileage, but have their pay on promotion fixed without taking mileage into account. Government consider this equitable.

NON-PROVISION OF FREE QUARTERS TO CERTAIN NORTH WESTERN RAILWAY EMPLOYEES.

241. Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that employees who were in service prior to the 1st August, 1928, and were confirmed after that date, and who had proceeded on leave during the period before confirmation, were permanently debarred from the privilege of free quarters on the North Western Railway if they enjoyed such a concession? If so, why?

(b) What provision exists for revision of hard cases?

(c) Is it a fact that the restriction referred to in part (a) above was brought into effect after some time? If so, why with retrospective effect?

The Honourable Sir Edward Benthall: The Honourable Member's attention is invited to the replies given on the 16th February 1938 and 31st August 1938 to his starred questions No. 327 and 631 respectively. Government have nothing further to add to those replies.

GANGMEN DEPRIVED OF UNIFORMS ON RAILWAYS.

242. Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state whether the Railway Board in its memorandum to the Royal Labour Commission stated that the principle followed for giving uniforms to the staff was that they were low-paid and worked under special conditions, which entail the use of proper dress and which involve heavy wear and tear of clothes?

(b) If so, why are the gangmen deprived of uniforms on Railways?

(c) If the reply to part (a) above be in the negative, will the Honourable Member state the real position on the point?

The Honourable Sir Edward Benthall: (a) Yes.

(b) It is considered that Gangmen do not fulfil the conditions, although most railways provide them when necessary with waterproofs, overcoats or blankets.

(c) Does not arise.

PROPOSED INCREASE IN HIGHER GRADE COMMERCIAL STAFF ON NORTH WESTERN RAILWAY.

243. Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that the Railway Board is considering the question of increasing the number of Grade II and higher appointments for Commercial Clerks employed on the North Western Railway? If so, when are final orders likely to issue?

(b) Will the scheme of increasing the number be confined to Commercial Staff only or extended to other classes of staff as well? If not, why not?

(c) Is it a fact that the General Manager, North Western Railway, recently stated that, as Commercial Clerks were apt to fall a prey to temptations, it was desirable to increase the number of higher grade appointments? If so, why not for other classes of staff?

The Honourable Sir Edward Benthall: (a) and (b). Certain proposals made by the General Manager, N. W. Railway, for adjustment of the strength of

grade I and grade II Commercial Clerks on the N. W. Railway are at present being examined in the Railway Board's office. Government cannot State when a decision is likely to be reached.

(c) Government are not prepared to disclose the details of such correspondence.

RECRUITMENT ON NORTH WESTERN RAILWAY AS A RESULT OF EXAMINATION AND SELECTION.

244. Mr. Lalchand Navalrai: (a) With reference to the Honourable the Railway Member's reply to part (b) of my starred question No. 107, asked on the 14th February last, in regard to recruitment on the North Western Railway, as a result of an examination and selection, will he be pleased to state whether such posts are treated as competitive or selection posts for the purpose of application of the Home Department circular of July, 1938, and whether the balance of unfilled minority community posts in the competitive examination is carried forward for one year only?

(b) If these posts are treated as selection posts for the purpose of the Home Department circular referred to in part (a) above, the reason why they are so treated?

The Honourable Sir Edward Benthall: (a) and (b). On the railways, the rules regarding the carry-forward of deficiencies in the recruitment of minority communities to posts filled by competitive examination are also applied to posts filled by selection.

DETERIORATED ENGINES ON NORTH WESTERN RAILWAY.

245. Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that the general condition of a large number of locomotives on the North Western Railway is bad?

(b) Is it a fact that the staff are severely punished for the supposed loss of time and failures, etc., while working with bad engines? If so, why?

(c) What improvements have been ordered in the administrative machinery on the North Western Railway or for repairs to engines? If not, why not?

The Honourable Sir Edward Benthall: (a) No.

(b) No.

(c) The question of repairs to locomotives has recently been discussed with the General Managers of Class I Railways. No special orders have been issued to the North Western Railway, nor are any considered necessary.

SELECTION OF ASSISTANT CONTROLLERS ON NORTH WESTERN RAILWAY.

246. Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that the Railway Board have received complaints about the selection of Assistant Controllers on the North Western Railway? If so, how was the same disposed of?

(b) When was a selection for the approved list of qualified controllers held? Was any subsequent selection also held for a few candidates? If so, why?

(c) Is it a fact that approved lists of Assistant Controllers are current for a very long time? Why are they not revised after every two years or so to allow senior men to get on to the list?

The Honourable Sir Edward Benthall: (a) Government have not received any such representation.

(b) Selections were held in November, 1941, March, 1943, and April, 1943. The selection held in March, 1943, was supplementary to the one held in November, 1941, as some staff who were eligible for promotion were inadvertently left out of consideration in the earlier selection.

(c) No; as will be seen from the reply to part (a), a fresh selection was necessary within two years of the earlier one.

DUTIES AND SCALES OF PAY OF SWITCHMEN IN DELHI DIVISION, NORTH WESTERN RAILWAY, TAKEN OVER FROM EAST INDIAN RAILWAY.

247. Mr. Ananga Mohan Dam: (a) Will the Honourable Member for Railways please state the avenue of advancement on the Delhi Division of the North

Western Railway of the Switchmen taken over from the 1st April, 1927, from the East Indian Railway?

(b) What is their nature of duty as Switchmen, and what duties are prescribed for them on advancement in their avenue?

(c) What are the Stations, Cabins, etc., on which they are employed?

(d) What are their present scales of pay, and what pay is prescribed for them on advancement in their avenue?

The Honourable Sir Edward Benthall: (a) They are eligible for appointment as Yard Foremen if they qualify and subject to communal proportion.

(b) Their present duties are those of Cabinmen on the N. W. Railway, and as Yard Foremen their duties will be those connected with yard operation.

(c) Ghaziabad and Bhatinda.

(d) Their present scale is 30—2—40 and if they are promoted as Yard Foremen, they will be in the scale 45—5—60.

POLICY RE TRANSFERS OF NON-GAZETTED RAILWAY SERVANTS, ETC.

248. Mr. Ananga Mohan Dam: Will the Honourable Member for Railways please state the policy laid down by the East Indian and North Western Railways and the procedure prescribed under that policy, for the transfer of Non-Gazetted Railway Servants, inferior and subordinate services, respectively, from one station to other?

The Honourable Sir Edward Benthall: Government have no information on these matters of detail which are entirely within the competence of the Railway Administrations.

DEARNESS ALLOWANCE TO RAILWAY AND OTHER CENTRAL GOVERNMENT SERVANTS.

249. Mr. Ananga Mohan Dam: Will the Honourable Member for Railways please state the amounts of the dearness allowance sanctioned to Railway servants from the 1st March, 1944, together with those sanctioned to the servants of the Central Government, and the reasons for the differential treatment if any amongst the servants of the two Departments under the Central Government?

The Honourable Sir Edward Benthall: The statement attached gives the required information. The schemes of relief in cash and kind for Railway and other Central Government servants are framed to suit the conditions of service in each case. The statement gives the cash relief only.

Comparative statement showing Dearness Allowance sanctioned to Railway servants and other

Category of employees.	Area.	'X'		Area.	'A'	
		Pay limit.	D. A.		Pay limit.	D. A.
1	2	Rs. 3	Rs. 4	5	Rs. 6	Rs. 7
Railway Servants .	Bombay, Calcutta and Cawnpore.	250	16	Towns with not less than 250,000 inhabitants except 'X'.	200	14
Central Government Servants (other than Railway Servants).				Bombay and Calcutta.	Below 40 40 to 250	14 18
<i>Central Government employees with effect from 1st March, 1944.</i>						
Category of employees.	Area.	'B'		Area.	'C'	
		Pay limit.	D. A.		Pay limit.	D. A.
8	9	Rs. 10	Rs. 11	12	Rs. 13	Rs. 14
Railway Servants.	Towns with 50,000 inhabitants or more but less than 250,000.	175	11	Other areas.	150	9
Central Government Servants (other than Railway Servants).	Suburbs of Bombay and Calcutta not included in Area 'A' and certain specified Towns.	Below 40 40 to 200	11 14	Localities other than those classified as 'A' or 'B' areas.	Below 40 40 to 150	9 12

**APPLICATIONS UNDER PAYMENT OF WAGES ACT AGAINST ILLEGAL DEDUCTIONS, ETC.,
ON EAST INDIAN AND NORTH WESTERN RAILWAYS.**

250. Mr. Ananga Mohan Dam: Will the Honourable Member for Railways please state the number of applications from Railway employees for direction under the Payment of Wages Act, for the refund of deductions and for the payment of delayed wages made since March, 1938, against the East Indian and North Western Railway Administrations, respectively, together with the result of the disposal of those applications? If not, why not?

The Honourable Sir Edward Benthall: The Honourable the Labour Member has agreed to deal with the question on the 4th April, 1944.

**EAST INDIAN AND NORTH WESTERN RAILWAYS EMPLOYEES DISMISSED AND
DISCHARGED FROM SERVICE.**

251. Mr. Ananga Mohan Dam: Will the Honourable Member for Railways please state the number of East Indian and North Western Railways employees, Gazetted and Non-Gazetted, separately, who have been dismissed and discharged respectively, from service, during the preceding two years, together with the reasons therefor? If not, why not?

The Honourable Sir Edward Benthall: No; the collection of the details asked for will involve an expenditure of time and energy which Government consider unjustifiable.

**ARRANGEMENTS FOR TRANSPORT OF MILK TO DELHI FROM STATIONS BETWEEN
MEERUT AND DELHI.**

252. Mr. Ananga Mohan Dam: Will the Honourable Member for Railways please state the arrangements made by the North Western Railway Administration for the transport of milk by individuals to Delhi from roadside stations between Meerut and Delhi? If no arrangements have been made the reason therefor.

The Honourable Sir Edward Benthall: Milk for Delhi from road-side stations between Meerut and Delhi is ordinarily carried by individuals who travel on third class monthly season tickets and who are accommodated in the train service carriages. No special arrangements have been made by the Railway as the need for such has not arisen.

**ARRANGEMENTS FOR CONVEYANCE OF STUDENTS FROM SHAHDARA-DELHI TO
DELHI DURING SUMMER MONTHS.**

253. Mr. Ananga Mohan Dam: Will the Honourable Member for Railways please state the arrangements made for the conveyance of students (boys and girls) reading in the Schools at Delhi and residing at Shahdara during Summer (between 1st April and 31st October) in the early morning hours from Shahdara to Delhi? If no arrangements are made, why?

The Honourable Sir Edward Benthall: I would invite attention to the reply given in this House to part (b) of Unstarred question No. 156 by Mr. Muhammad Azhar Ali on the 22nd March 1944.

MOTIONS FOR ADJOURNMENT.

**FAILURE OF MILITARY AUTHORITIES TO PREVENT DACOITY BY HURS IN METHO DERO,
SIND.**

Mr. President (The Honourable Sir Abdur Rahim): I have received three notices of motions for adjournment. The first one is in the name of Mr. Lalchand Navalrai. He wishes to move for adjournment of the business of the Assembly for the purpose of discussing a definite matter of urgent public importance, namely, the failure of the military authorities stationed in Sind to prevent a daring dacoity committed by an armed gang of Hurs in Metho

Dero (Larkana District) (Sind), in the houses of Hindus of that place depriving them of the property worth over a lakh of rupees on the 25th March, 1944.

I think military law no longer prevails in Sind.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, the point is this: The military authorities have ostensibly withdrawn, but there are some military people kept there to help the Government to . . .

Mr. President (The Honourable Sir Abdur Rahim): That makes no difference. This matter is a charge of the Police and, therefore, it is the concern of the Local Government. The motion is disallowed.

Mr. Lalchand Navalrai: The motion is not . . .

Mr. President (The Honourable Sir Abdur Rahim): Order, order.

SIR G. S. BAJPAI'S STATEMENT IN AMERICA CONCERNING FAMINE IN BENGAL.

Mr. President (The Honourable Sir Abdur Rahim): I have received a notice for the adjournment of the business of the Assembly for the purpose of discussing a definite matter of urgent public importance, namely, that, Sir G. S. Bajpai, India's Agent General in the United States, in addressing a meeting of the members of the Pacific Khalsa Dewan Society in a Sikh temple, said that there was no famine in Bengal now, but the after effects of malnutrition are being combated. Further, when asked what action he expected the U.N.R.R.A. to take, he said 'there is no shortage of food now in Bengal. The after effects of malnutrition must be combated'.

But I thought it was now admitted that there was no famine in Bengal.

Mr. Amarendra Nath Chattopadhyaya (Burdwan Division: Non-Muhammadan Rural): That is not admitted.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member may hold a different opinion. That is a very different matter.

Mr. Amarendra Nath Chattopadhyaya: The Government have not said that the famine is over.

Mr. President (The Honourable Sir Abdur Rahim): But the statement has been made authoritatively several times in the last few days that famine no longer exists in Bengal. I, therefore, rule that the motion is not in order.

FRESH RESTRICTIONS ON DETENUS IN THE MATTER OF LENGTH OF LETTERS WRITTEN BY THEM.

Mr. President (The Honourable Sir Abdur Rahim): I have received a notice from Qazi Muhammad Ahmad Kazmi for the adjournment of the business of the Assembly for the purpose of discussing a definite matter of urgent public importance, namely, to censure the Government of India for imposing fresh restrictions in the matter of letters written by detenus restricting them not to write more than 20 lines in a letter, as reported in the *Hindustan Times*, dated 2nd April, 1944.

Mr. Vishnu Sahay (Government of India: Nominated Official): The Government of India have issued no such orders restricting the length of letters written by detenus to 20 lines. Months ago it was suggested to Provincial Governments that they might follow the practice in England and supply detenus special forms on which letters should be written and on account of that the length of the letter might be limited, but it was left to Provincial Governments entirely to adopt the system or not, as they thought fit.

Sardar Mangal Singh (East Punjab: Sikh): In a Press Conference at Lahore . . .

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

Sardar Mangal Singh: I am reading from the *Tribune*. It was a Press Conference with the Home Secretary of the Punjab Government, in which he said that instructions had been issued by the Government of India . . .

Mr. President (The Honourable Sir Abdur Rahim): That is newspaper report.

Sardar Mangal Singh: That is a press report.

Mr. President (The Honourable Sir Abdur Rahim): But the Member on behalf of Government denies it.

Sardar Mangal Singh: It was a suggestion only.

Mr. President (The Honourable Sir Abdur Rahim): Order, order. He has just said that no such instructions have been issued.

Sardar Mangal Singh: If you will allow me to read it . . .

Mr. President (The Honourable Sir Abdur Rahim): But the *Tribune* may have understood it differently.

Sardar Mangal Singh: But it is in a Press Conference.

Mr. President (The Honourable Sir Abdur Rahim): That may be so.

Sardar Mangal Singh: That is the report of the Special Correspondent. When asked why an innovation had been made for imposing a fresh restriction in the matter of writing letters on the Congress detenus who were now required to write on a prescribed form and write not more than 20 lines in a letter, the Home Secretary, Mr. Donald, told the Press today that in that matter again the Punjab Government had merely followed the instructions of the Government of India who had issued instructions and prescribed the form. Surely, this has not been contradicted by the Government of India.

Mr. Vishnu Sahay: I have not seen that cutting and I still maintain that we have not issued instructions.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): On the admission of the Honourable Member, they have issued instructions to the Provincial Government to have some prescribed form.

Mr. President (The Honourable Sir Abdur Rahim): Not issued, but left it to the option of the Local Government.

Qazi Muhammad Ahmad Kazmi: And is it not a directive? Do they also not admit that in respect of the restriction regarding the number of lines that are to be written they made any suggestion?

Mr. President (The Honourable Sir Abdur Rahim): That is the allegation. The Government Member has positively denied it.

(Several interruptions.)

Order, order. The Government Member says that the Government of India have not issued any such instructions as mentioned in this notice. I, therefore, disallow the motion.

ELECTION OF A MEMBER TO THE CENTRAL ADVISORY COUNCIL FOR RAILWAYS.

The Honourable Sir Edward Benthall (Member for Railways and War Transport): Sir, I move:

"That this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, one non-official Member to serve on the Central Advisory Council for Railways for the year commencing 1st April, 1944."

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

"That this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, one non-official Member to serve on the Central Advisory Council for Railways for the year commencing 1st April, 1944."

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): I want to suggest that as the Central Advisory Committee meeting is being held

to-morrow, it will be expedient and desirable that this vacancy is filled, if possible, today, and after nominations are received you find that there is no election and the Honourable Member is returned unopposed, then he must have the opportunity of sitting at the meeting to-morrow.

Mr. President (The Honourable Sir Abdur Rahim): I think some time must be given.

Sir Muhammad Yamin Khan: All parties, as far as I understand, are agreed that there shall be one nomination and the resignation had been filed to make room for one Member so that he could get an opportunity.

Mr. President (The Honourable Sir Abdur Rahim): I do not know whether this can be done. Today is the 3rd. The question is:

"That this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, one non-official Member to serve on the Central Advisory Council for Railways for the year commencing 1st April, 1944."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): What I can suggest is whether the Government cannot hold the meeting of the Advisory Council some-time later. There must be sufficient time given for this election.

I have to inform Honourable Members that for the purpose of election of a member to the Central Advisory Council for Railways the Notice Office will be open to receive nominations upto 12 o'clock on Tuesday, the 4th April, and that the election, if necessary, will be held on Wednesday, the 5th April. The election, which will be conducted in accordance with the principle of proportional representation by means of the single transferable vote, will be held in the Assistant Secretary's room in the Council House between the hours of 10-30 A.M. and 1 P.M.

The Honourable Sir Edward Benthall: Sir, may I say something about the holding of the Council. This meeting has already been fixed for to-morrow at 10 A.M. Papers have been circulated. Honourable Members say they have received the papers and I think it is going to be inconvenient for a great many members if the meeting is postponed.

Sir Muhammad Yamin Khan: The papers had been circulated only the day before yesterday. There may be inconvenience for one or two but it may be inconvenient for the House if one Member is not elected and if the Member is there, I think it is desirable that the meeting should be held some time after the election is over. That won't cause very great inconvenience to the Members. Ten o'clock is not a very desirable hour.

Mr. President (The Honourable Sir Abdur Rahim): You cannot make a speech on this. We shall now take up Legislative business. Dr. Ambedkar.

THE FACTORIES (SECOND AMENDMENT) BILL.

The Honourable Dr. B. E. Ambedkar (Labour Member): Sir, I beg to move for leave to introduce a Bill further to amend the Factories Act, 1934 (*Second Amendment*).

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

"That leave be granted to introduce a Bill further to amend the Factories Act, 1934 (*Second Amendment*)."

The motion was adopted.

The Honourable Dr. B. E. Ambedkar: Sir, I introduce the Bill.

THE INDIAN INCOME-TAX (AMENDMENT) BILL—contd.

Mr. President (The Honourable Sir Abdur Rahim): The House will resume consideration of clause of the Indian Income-tax (Amendment) Bill. Amend-

ment No. 8 of the Final List has been disposed of. No. 1 on the Supplementary List No. 1. Sir Cowasjee Jehangir.

(Sir Cowasjee Jehangir was absent.) (After a pause.)

If any Honourable Member has any amendment to move he himself ought to rise in his seat. This has been pointed out by the chair a number of times.

Nawab Siddique Ali Khan (Central Provinces and Berar: Muhammadan): There is a short notice question, Sir.

(The Secretary of the Assembly informed the Honourable Member that there was no short notice question for today.)

Mr. R. R. Gupta (Cities of the United Provinces: Non-Muhammadan Urban): I do not move Nos. 9 and 10, they were only consequential amendments. I move No. 11. Sir, I move:

"That in clause 5 of the Bill, in part (a) of sub-section (1) of the proposed section 18A for the words 'six thousand' occurring in line nine the words 'nine thousand' be substituted."

In moving this amendment I wish to point out to the House that since we have not succeeded in getting amendment No. 8 carried, it becomes essential that this amendment should be moved. The Honourable the Finance Member has himself realised in the Select Committee that to force all the assesses, especially the smaller assesses, to deposit money every three months will be hard and difficult for the assesses. It is not only a question of difficulty for the assessee, but I think even the Department will find it a difficult job because the smaller assesses coming within the category of Rs. 6,000, 7,000, 8,000 and 9,000, mostly reside in remote villages, from where they will be expected to come every three months. Moreover, actual practice and actual experience show that proceedings in income-tax for smaller assesses are a very tedious type of job. It takes sometimes several days before they get a time for hearing. In view of these circumstances, and considering not only from the point of view of the smaller assessee but also from that of the department. I hope that the Finance Member will agree to increase the limit from 6,000 to 9,000. As a matter of fact, in the original Bill there was no exemption allowed at all. It was only in the Select Committee that the Honourable the Finance Member agreed to exempt assesses having an income up to Rs. 6,000 from the provisions of this amendment Bill. This limit of 9,000 covers also same class of people as, with income of Rs. 6,000, and therefore, I hope the Finance Member will find it convenient to increase the limit up to 9,000. Sir, I move:

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

"That in clause 5 of the Bill, in part (a) of sub-section (1) of the proposed section 18A for the words 'six thousand' occurring in line nine the words 'nine thousand' be substituted."

Mr. T. T. Krishnamachari (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): I rise to support the amendment moved by my Honourable friend, Mr. Ram Ratan Gupta. When commending the Report of the Select Committee to the House the Honourable the Finance Member mentioned with some gratification that a large number of assesses were excluded by reason of this exemption of incomes under Rs. 6,000. The object of this amendment is to seek to raise the limit of exemption a little further. Considering that the rupee value has gone down, I think it will not be unfair to exempt people with an income of approximately Rs. 750 a month, which will eliminate the bulk of small traders, professional men and others who are on the border line of the lower and upper middle classes. I would like to know from the Honourable the Finance Member or his adviser how the income of the Government will be affected in case they feel that this amendment cannot be accepted. Because we feel that the deposit income of the Government cannot

[Mr. T. T. Krishnamachari.]

be considerably reduced by accepting this amendment, nor will the anti-inflationary effect be greatly prejudiced if this amendment is accepted. I hope that the Honourable the Finance Member will give his consideration to this amendment, particularly in view of the fact that the figure the Government have in their possession does not exactly relate to classes of income up to Rs. 6,000 but relates to incomes of Rs. 7,500, and that happens to represent large percentage of the total number of income-tax payers in this country, the aggregate amount of the tax collected from whom forms but a small percentage of the total of the income-tax. Unless Government have made up their mind not to accept any amendment that comes from this side, I think that there is a very good case for exemption of income up to Rs. 9,000, and Government should accept the amendment. I support the amendment.

Mr. Hoeseinbhoj A. Lalljee (Bombay Central Division: Muhammadan Rural): I rise to support the amendment. So far as the income-tax department is concerned they are fully aware that ordinarily firms are unable to make up their balance sheet for even a year or so. In fact, recently owing to the great demand for clerical staff everywhere, it is a fact—and many a time I had to go on behalf of my friends to place before the income-tax department the great difficulties of people in not being able to make up their accounts for want of clerks and accountants. We cannot get any good accountants for any price, because now-a-days their services are required everywhere, and I hope that the Finance Member will take this into consideration. Even the Government have had to employ any number of people who know anything of accounts. Again, when accounts are presented, it takes about three months for the department to come to some final conclusion. People in small businesses cannot get accountants at all, and many times complaints have been made that income-tax authorities have been treating people harshly because the assesses have got to wait for months before the authorities come to some final conclusion. There is one important thing. I am sure the Honourable the Finance Member will agree with us that in all ordinary business in India a good deal of credit business is going on and it is absolutely essential for ordinary people to give credit for a month or two or three and one does not know what is the state of affairs until at least six months after. Business in India is really speaking business which combines both purchaser and seller as well as the banking portion of it, that means, lending money. Unfortunately in our country business cannot be done without that. I can say that the Government will not lose anything by accepting this amendment. They have always said that they are eager to help the people who are paying. I do suggest to Government that this is a very very reasonable demand. Within six months, I am sure the Honourable the Finance Member will get reports from his own department that they are not able to handle this sort of business. In the income-tax office in Bombay and other places, you will find not scores but hundreds of people waiting, because of the fact that they cannot make up their accounts so well because there are no auditors, accountants and clerks employed by them, especially in view of the high pay that is now-a-days given. In these circumstances I do appeal to the Honourable the Finance Member that in the interest of his own department and assessee he will treat the assesses fairly and equitably. In the circumstances I hope that the Finance Member will concede the request that has been made in this amendment, specially when Government is not going to lose anything and because the sums are not at all large.

The Honourable Sir Jeremy Baisman (Finance Member): I regret that I must oppose this amendment and in doing so, I must express my surprise that so little appreciation has been shown to the concession which is already embodied in the amended Bill as it has emerged from the Select Committee. There was no reason on grounds of principle why any exemption should be

given in respect of this measure which after all merely provides for a compulsory deposit. It is not exactly the same as a tax where the incidence has to be related to the capacity to pay. This is a case of anti-inflationary action and it is widely argued that this kind of action is even more necessary in the case of people in the lower ranges of income than in the higher ranges. In fact, the big capitalists tend to argue that money in the hands of the big industrialist is fairly safely immobilized already and that the place in the income scale on which you should concentrate attention is lower down where free purchasing power is more likely to be used for consumption spending. However, in deference to the feeling of many Members in the Select Committee, I did accept an amendment which is of a far-reaching character in regard to the number of assesseees affected by the original measure. On such figures as we possess—admittedly they relate to a year or two ago—the proportion of the assesseees in the class up to 6,000 was no less than two-thirds of the whole, so that in accepting the exemption of incomes up to 6,000 we let out two out of every three assesseees to whom the original measure had applied. I feel that I am called upon to defend my acceptance of so sweeping an amendment rather than to be subjected to pressure to go further. My defence is this. It will be a great relief administratively to the department to have to deal with so much smaller a body of assesseees. It will be a very great relief indeed and secondly the proportion of the total income which would have been immobilized and which will be released by this exemption, according to our calculations, would only be about 5 per cent. of the total. It may in more recent conditions be somewhat higher than that but I am confident that it is well below 10 per cent. I am here defending the exemption which has already been included in the Bill. I could certainly not justify either to myself or to an impartial critic any further advance along this line. It would, I feel sure, do great damage to the object of this measure and I regret that I cannot possibly agree to any further exemption.

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

"That in clause 5 of the Bill, in part (a) of sub-section (1) of the proposed section 18A for the words 'six thousand' occurring in line nine the words 'nine thousand' be substituted."

The motion was negatived.

Sir John Sheehy (Government of India: Nominated Official): Sir, I move:

"That in clause 5 of the Bill, in the proposed section 18A in sub-section (1) (a),—

(a) Before the existing first proviso, the following proviso be inserted namely:

'Provided that, where the previous year of the assessee in respect of any source of income ends after the 31st day of December and before the 30th day of April, the order in writing issued by the Income-tax Officer requiring the payment of income-tax and super-tax on that source of income shall substitute for the four quarterly payments hereinbefore specified, three payments of equal amount to be made on the 15th day of September, the 15th day of December and the 15th day of March, respectively;

(b) In the existing first proviso, after the word 'Provided' the word 'further' be inserted."

Sir, the Honourable the Finance Member has already explained the reason for this amendment, namely, that we want to put assesseees whose year ends after the 31st December in much the same position as assesseees whose year ends on or before that date, that is to say, we are not asking them to pay any tax until about six months have elapsed from the beginning of their accounting period. Sir, I move.

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

"That in clause 5 of the Bill, in the proposed section 18A in sub-section (1) (a),—

(a) Before the existing first proviso, the following proviso be inserted namely:

'Provided that, where the previous year of the assessee in respect of any source of income ends after the 31st day of December and before the 30th day of April, the order in writing issued by the Income-tax Officer requiring the payment of income-tax and super-tax on that source of income shall substitute for the four quarterly payments hereinbefore specified, three payments of equal amount to be made on the 15th day of September, the 15th day of December and the 15th day of March, respectively;

(b) In the existing first proviso, after the word 'Provided' the word 'further' be inserted."

The motion was adopted.

Mr. T. T. Krishnamachari: Sir, I move:

"That in clause 5 of the Bill, in sub-section (6) of the proposed section 18-A, for the word 'eighty' wherever it occurs, the words 'sixty-six and two thirds' be substituted."

Sir, the amendment is self-evident. The Government have fixed the limit of 80 per cent. and have said that if an assessee estimates his income below 80 per cent. of his final assessed income, then the penalty clause will come into operation. I did mention at an earlier stage about the difficulty of an assessee estimating his income so correctly as to be within 80 per cent. of the finally assessed income. Besides, the question of deciding whether a person's assessment is up to 80 per cent. or not lies with the Income-tax Officer. I want to repeat here what I said elsewhere in print that there is on this matter a very large room for *bona fide* disagreement possible between the Income-tax officer and the assessee. The answer to that argument from the Honourable the Finance Member will be, "Choose the other alternative". That comes up every time. If you say this particular concession that you have given to me is not adequate and this concession is not workable, the answer is, "Well, I have given you the alternative". I am speaking of this concession only because the alternative is not suitable to me. I am speaking only of such cases where the alternative is not workable and where it cannot be accepted. So, I will at once forestall the Honourable the Finance Member who I have no doubt will say, "There is the alternative; accept it". I would rather he does not spend time, energy and labour in pointing out that there is an alternative about which we all know. On this question whether an assessee will be able to assess his income at 80 per cent. of the final assessment, which will be imposed by the officer concerned, I think I am on a fairly good ground. I have said when this Bill was discussed at the primary stage that there is a large field of *bona fide* disagreement such as bad debts, where the assessee will entertain a *bona fide* belief that certain exemptions will be made. Then, there is the question of the management expenses and there is also this very vexed question of the apportionment between capital and revenue. On all these items *bona fide* disagreement is possible. After all, what is it that we are seeking to do by this amendment? It is only a question of reducing this figure that has been fixed by the Government, a figure which will be entirely left to the discretion of the Income-tax Officer to judge, by 13½ per cent. and that extends the field of safety so far as the assessee is concerned.

Sir, I quite anticipate another reply from my Honourable friend, the Finance Member. He will say, "Well, we have already considered the matter in all its aspects". What we can really do is to urge that there is another point of view. If you choose to close your mind to every other point of view, then short of my being able to vote down your point of view by more physical strength of numbers I cannot do anything else. I think equity demands that any decision taken, must be in favour of the assessee and not that a loaded dice should be kept against him, particularly in view of the fact, which is also within the experience of the Honourable the Finance Member himself, that there is a large field of *bona fide* disagreement. I therefore commend this amendment to the House.

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

"That in clause 5 of the Bill, in sub-section (6) of the proposed section 18-A, for the word 'eighty' wherever it occurs, the words 'sixty-six and two thirds' be substituted."

Mr. R. E. Gupta: Sir, I rise to support the amendment moved by my Honourable friend, Mr. Krishnamachari. I will point out only one thing. According to the present provision of the Bill, the income of an assessee should be 80 per cent. of the assessment which may be made by the Income-tax officer. The effect of that provision will be: Suppose I have assessed my income honestly at what I felt to be my legal profit, but at the time of assessment the Income-tax officer finds that such and such bonuses, dearness allowances and other expenses should not be allowed—and, mind you, the

Honourable the Finance Member goes on issuing Circulars disallowing many type of expenses—in that case if our income becomes more than what we assessed ourselves, then we are liable to be penalised under the penalty clause. Secondly, from my own experience I can say that many of the genuine cases of bad debts which are connected with the business have been disallowed on some technical ground or other. What will be the position in such cases if the items which have been disallowed by the Income-tax officer increase the income of the assessee by more than 80 per cent.? In that case, he will be supposed to have broken the law and he will be liable to the penalty provided in the subsequent sections. In view of all this, the Honourable the Finance Member should agree that if the income of the assessee is found to be short of 80 per cent., while submitting annual return, of what he himself has assessed, then and then alone it will be reasonable to leave that figure there. But if he does not agree to that and if he wants to insist on the provision that the percentage will be calculated from the assessment made by the Income-tax officer, in that case this amendment must be accepted.

The Honourable Sir Jeremy Raisman: Sir, there are at least three very good reasons why this amendment should not be accepted. The first my Honourable friend, Mr. Krishnamachari, tried to dispose of by suggesting that I should not even mention it. But, of course, it covers about 95 per cent. of any force which this amendment should have, namely, that the assessee had no need to get into any difficulty or controversy about 80 per cent. or any other per cent. All that he had to do was to repeat the assessment of last year which is a definite figure, which is known, which has already been communicated to him and which leaves the realm of speculation entirely. Even supposing that that assessment is somewhat higher than the actual profits of the succeeding year, the worst that has happened to him is that he has invested a certain sum for one year at 2 per cent. per annum, which is not, I submit, a very atrocious forfeit to suffer.

The second reason is that even an assessee who does not choose the simple and straightforward course which will relieve him of all trouble in the course of the year, by the time he comes to make his last deposit, he, already in a large number of cases, has had a full trading year and should know pretty accurately what his profits were.

The third reason, which is also a very cogent one is this. If the assessee deposits less than 80 per cent. he still gets two per cent. interest on the amount he has deposited. Supposing for the sake of argument, that he deposits 66 $\frac{1}{3}$ per cent. of the tax he should have deposited, on that 66 $\frac{1}{3}$ per cent. he gets interest from the Government. But if it is found at the time of the final assessment, that his deposit was short, he pays six per cent. on the amount by which it fell short, that is 13 $\frac{2}{3}$ per cent. So, actually on this interest business, he may still be in pocket, I regret to say, even though he failed to deposit 80 per cent. of the tax. I regret to say this, I must admit that it was my original intention that he should forfeit 2 per cent. interest on his deposit as well as pay six per cent. penalty on the short-fall. Unfortunately this effect was not brought about as was discovered when it came before the Select Committee. The Committee did not wish to see any harsher provision introduced and in deference to their feeling, I did not attempt to re-introduce a provision of that kind. But it makes an amendment of the nature now proposed entirely otiose in my opinion. Sir, I oppose the amendment.

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

“That in clause 5 of the Bill, in sub-section (6) of the proposed section 18A for the word ‘eighty’ wherever it occurs, the words ‘sixty-six and two thirds’ be substituted.”

The motion was negatived.

Mr. B. R. Gupta: Sir, I move:

“That in clause 5 of the Bill, sub-section (9) of the proposed section 18-A be omitted.”

[Mr. R. R. Gupta.]

Sir, this clause in the Bill deals with that sword which always hangs over the head of the assessee in the hands of the Income-tax Officer. It is the penalty clause that will operate against the assessee if the deposits he has made are found to be shorter than 80 per cent. We have already explained the difficulties in assessing the actual income. We have also explained the difficulties and rather the impracticabilities for many firms to assess the correct income. We have also explained that for an assessee, it is impossible to choose the previous year's assessment.

The Honourable Sir Jeremy Raisman: Impossible!

Mr. R. R. Gupta: For the simple reason that the profits of the previous years are much higher than what will henceforth be subsequently. That fact has been proved.

The Honourable Sir Jeremy Raisman: Disproved.

Mr. R. R. Gupta: During the last discussion, it was proved. But I cannot understand one fact. The Honourable the Finance Member was good enough to explain in his Budget speech that he has provided only for a mild penalty against those persons whose deposits will be less than 80 per cent. and that is 6 per cent. interest will be charged which he admitted will operate as penalty. We have not objected to that penalty. But on the top of that, why this second penalty has been brought forward? I wish to point out that after all this deposit will be with the Government only for nine months and after the close of the year full assessment will be made. Suppose a man does not deposit the total amount and conceals some of the amount. At the end of the year, as soon as the assessment is over, he will have to deposit that balance with the Government. Why then do you want to hang this sword over his head? In any case, his deposit will be there, still he is liable to be penalised to the extent of $1\frac{1}{2}$ times the amount of actual income-tax by which he has fallen short. We have already explained that it is not a question of only dishonest men being affected, but that many honest people also will be affected. They will have practical difficulties in assessing the actual income during the year, three or four times. They will also be affected by this. Now, Sir, it has been explained that the Department will issue instructions that wherever the fault is found to be genuine, and where the Income-tax Officer is satisfied, he should not invoke this penalty clause against the assessee. So far as this point is concerned, I think the Income-tax Act has been in existence in India for over 25 years.

Sir John Sheehy: 75 years.

Mr. R. R. Gupta: Yes, if it has been in existence for over 75 years, we must take a lesson from the experience of its working all these years. This penalty clause has operated in the past against persons who genuinely could not complete their account within the time, and on many occasions, enough harassment has taken place. Sir, it has already been explained that due to increase of work, new staff has been appointed, and their promotions, etc., are dependent on the number of cases which they bring in under this penalty clause. Therefore, I hope the Honourable the Finance Member will realise the justice of our amendment and will accept the same. I may further point out that after all this is a new provision which you are inserting this year. Let it work for a year, let people gain experience, let the Department gain experience, let the people fix up their arrangements so that they may be able to close their profit and loss account every three months. Afterwards, if you find it is essential, you can bring in the amendment to the Act, or you have already got the power in your hand to use the big stick at whatever time, in whatever manner, you like. Therefore, I hope the Honourable Member will see the justice of our demand and will concede at least this last amendment. Sir, I move.

Mr. President (The Honourable Sr Abdur Rahim): Amendment moved: "That in clause 5 of the Bill, sub-section (9) of the proposed section 18-A be omitted."

Mr. T. T. Krishnamachari: Mr. President, I rise to support my Honourable friend Mr. Ram Ratan Gupta's amendment.

The Honourable Sir Jeremy Raisman: Castor and Pollux.

Mr. T. T. Krishnamachari: I am afraid it has to be, circumstanced as we are. We cannot go against what exists any way. That apart, so far as this sub-section (9) is concerned, my objection to this sub-section being imported into section 18-A is fundamental. I do not think, Sir, that mere departmental experience, knowledge of human nature, a good knowledge of arithmetic, the capacity to estimate in such a manner that supplementary demands swell to a larger figure than the original demand—all these things are not called for in regard to the consideration of this sub-section. This sub-section relates to the importation of the powers vested in the income-tax authorities under section 28 of the Income-Tax Amendment Act of 1939. One has to consider why this found a place in that Act. Reading the genesis of the fairly draconian provisions of this section 28 and going back as far back as the Income-tax Inquiry Committee's report, I find, that was brought into existence for a purpose totally different from what we are considering today. The authors of that report state:

"Representations made to us both by responsible commercial bodies and by officers of the Department, coupled with our own investigations, lead us to the opinion that the degree of under-assessment existing is of serious dimension."

And hence the provisions of section 28 have been invoked, penalties have been increased, and so on. The whole thing is that section 28 is there only for the purpose of dealing with an assessee who has cheated the department and goes on cheating the department. For one thing section 18A is, as my Honourable friend put it so succinctly just now, not a matter of assessment of tax; it is a matter of compulsory deposit for a period of the maximum of nine months.

The Honourable Sir Jeremy Raisman: Yes, but there must be compulsion.

Mr. T. T. Krishnamachari: Yes, there must be compulsion and there must be enough thread left to my Honourable friend to go on tightening the screw and there must be enough thread left to his subordinates to put the screw down further. I agree; but I say that the amount of compulsion necessary to make a man deposit a certain amount of money by way of tax that is due or that will become due for the following year is provided by those two provisions. One is the gift of interest at 2 per cent. on deposits and the second is the penalty of 6 per cent. if he does not pay the proper amount due. That provides the necessary amount of compulsion; and if that does not provide the necessary compulsion I will say that the prestige of the department is there. I mentioned the other day an instance of how the department is able to get information from people by asking the people to furnish information about their whole wealth in a particular form without any statutory right whatever to demand such information. My Honourable friend did not deny it nor did his adviser sitting behind him deny it.

The Honourable Sir Jeremy Raisman: I neither affirmed nor denied it.

Mr. T. T. Krishnamachari: Government turn a deaf ear when it is inconvenient; they do not take cognisance of a charge made if it does not suit them. They are in a privileged position; they are responsible for the collection of taxes and it matters not how they do it, and that is why they can turn a deaf ear and neither affirm nor deny. After all in the case of a charge being made and not denied what will a magistrate do? The magistrate will convict the accused person.

The Honourable Sir Jeremy Raisman: I am not in the dock.

Mr. T. T. Krishnamachari: So far as the public are concerned, the Honourable Member is perpetually in the dock, always responsible and answerable for

[Mr. T. T. Krishnamachari.]

the actions of himself and of his subordinates. Be that as it may, I say that I have made a charge and a fairly serious charge. I am asked to disclose everything that I have, by means of a power which is not to be found in any law enacted by this Legislature, or enacted by His Excellency the Viceroy and Governor General by means of an Ordinance. The Income-tax Department is able to treat the public harshly in cases where they have not got a total statement of wealth from an assessee; and my Honourable friend there will not deny it. The House will draw its own conclusions from it. But, I ask, when the department is so powerful why do you want to import the draconian provisions of section 28? What is the origin of the powers that have been vested in your department under section 28? Not for a purpose like this. In cases where there is absolutely no chance of your getting your money, where the Government will lose money, and you must arm yourself with all kinds of powers. You get powers under the penalty provisions of section 28, you get powers for getting hold of the assesses' assets, you get powers to distrain his property and collect the tax as arrears of land revenue. All these powers have been conferred on you by a responsible legislature in case where you are losing money. But the possibility of loss must be proved by you before you arm yourself with powers of such a character as is contemplated by section 28. And I say the burden of proof is still on the Honourable Member. He has not proved to us that something disastrous is going to happen, that Government are going to lose money and prestige, that law will go into contempt and, therefore, they must have these powers under section 28 imported into section 18A.

Sir, there are a number of other considerations. For one thing, the Honourable Member will agree that this is a country where the system of accounting is far from being perfect. The Honourable Member will agree that the bulk of the middle class assesses who will come within the scope of section 18A—not to speak of big firms with auditors, accountants and all that—have got their own difficulties in the matter of estimating their income. The Honourable Member cannot deny that he has sought to import this provision when practically during the last years of the war his attention has been aroused to the fact that there is inflation in this country which is gathering momentum every day. But this also happens to be a time when incomes are dropping. If my Honourable friend will ask his statisticians to prepare a graph of incomes he will find that incomes are dropping and not rising. People who have made money have made their pile alright; people who have done profiteering have done profiteering successfully; and hereafter from this year onwards incomes are going to drop and are not going to rise. I am fairly categorical on that point.

The Honourable Sir Jeremy Raisman: Provided all these measures are really enforced.

Mr. T. T. Krishnamachari: I agree that the House is giving you support to the bulk of your provisions of section 18A only for that purpose. But the importation of the powers of section 28 is not in my opinion at all necessary for enforcing the provisions of section 18A. That is my case.

Sir, I think as things are today, if the elected Members of this House allow themselves to be persuaded by the sweet and reasonable tongue of my Honourable friend, the Finance Member, to accede to these sub-sections (9) and (10) being incorporated in section 18-A—and there are cases, as cases will inevitably arise, where the provisions of section 28 are used to the detriment of assesses—I think it will be very difficult, for us to answer the charge that people will lay at our doors that we have not done our duty in this House. I repeat again what I said earlier that the Honourable the Finance Member has to prove to us definitely that all possible means of compelling a person to deposit are exhausted. And not merely that; he has also got to prove that there are going to be serious financial consequences, so far as his Government are concerned, if the powers under section 28 are not incorporated under section 18-A. If he cannot

prove it, as I think he cannot, there is absolutely no room for importing the draconian provisions of section 28 into the clause we are now considering. I think the House will be well advised to accept the amendment for this reason. I can assure Honourable Members of this House that the Income-tax Department, even though it is understaffed, even though it is overworked, can still manage to deal effectively with recalcitrant assesses. No ultimate loss to Government would ever ensue. An assessee cannot escape for all time. He has to go to the Income-tax Department some time or other. If he makes a false statement you can collect this penalty; he cannot escape assessment. The whole process of assessment has to be gone through, and if it is found that he has made a false statement he is black-listed straightaway. And no assessee can afford to be black-listed because it means perpetual harassment year after year, audited accounts being checked and so on, and the man has to be going to the Income-tax Department practically all round the year. These are possibilities that Honourable Members sitting here cannot visualise. It is people who see the other side of the picture who can visualise it. What then is the use of importing these draconian provisions. It may even be that my Honourable friend, Sir John Sheehy, will tell me that there are two or three cases every year in each province where section 28 is invoked. Even if that be . . .

Sir John Sheehy: There are far more than that. The assesses are not so well behaved as the Honourable Member thinks.

Mr. T. T. Krishnamachari: My information was that it is very rarely invoked. But let us take the circumstances under which it can be invoked under clause 18-A. The House will remember that this is a compulsory deposit—this is not an assessment of tax—a compulsory deposit in which there is the penalty provision and the loss of 2 per cent. interest. This is not a final assessment. It is only for a period of nine months and during these nine months the prestige and influence of the department is good enough to make the man obey the law and ultimately no loss of revenue to Government can arise. In no circumstances, any provision which will arm the Income-tax authorities with powers which are in the nature of the circumstances of the case bound to be used unduly and harshly, ought to be supported by elected Members of this House. I think the elected Members will stand condemned if there are even half a dozen cases in which sub-section 9 of section 18-A is invoked in order to compel the assesses to pay their compulsory deposits. So far as we are concerned, we cannot allow this to pass without a protest and as that is all what we are able to do in this House I feel we have done our duty in moving this amendment.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, I want to say something to remove the difficulty of interpreting these penalty clauses. The main object is to secure effective facilities to the Income-tax Department in the matter of assessment of income-tax. The multifarious changes made in the Income-tax Act since 1939 and their consequential effect are matters of common knowledge to every one. Sir, examinations have been prescribed and standards of qualification have been fixed for those people who can appear before the Honourable Member, Mr. Sheehy, but still the difficulties are very great as it requires a specific knowledge of the subject. My solution is that, just as practitioners are allowed to go and appear in the court to interpret the penalty clauses, I think it will facilitate matters if those officers, who have retired from high posts in the Income-tax Department and who are conversant with the working and application of penalty clauses and the Income-Tax Act, are allowed to appear before the court which may be set up to interpret these penalty clauses. Sir, it will be admitted by the Government that they have set up a high standard of competence for their Income-tax Officers in the various departmental examinations. The syllabus prescribed for them shows that these officers have a good knowledge of accountancy and income-tax than could be acquired by matriculates

The Honourable Sir Jeremy Raisman: This is entirely irrelevant.

Mr. Muhammad Ashar Ali: Sir, my only suggestion is that those officers who have retired from the Income-tax Department may also be allowed to appear before the Honourable Mr. Sheehy.

The Honourable Sir Jeremy Raisman: Sir, I agree with my Honourable friend, Mr. Krishnamachari, that this amendment is fundamental. In other words if it were passed, it would strike at the root of the whole measure and make it completely futile. I must, therefore, go back to some other broad considerations. In the first place, the introduction in this year's financial arrangements of a 'pay as you go' scheme of income-tax was obviously conceived as an alternative to a more drastic steepening of the rates of taxation. It is not intended merely to be a slight improvement, so to speak, in the general income-tax procedure. It is definitely intended as one of the means of dealing with the financial situation in the country at the present time: It is meant to mop up, as I explained in my Budget speech, a considerable sum of money during the course of this year, and while it is meant to do that by raising compulsory deposits rather than tax, it remains a very important part of the anti-inflationary programme. The main idea of the scheme is that as far as possible it should be self-working. It is a scheme of self-assessment and in that extent it may be said to provide what is usually called a 'soft option' to the assessee. All that is perfectly all right. The provision of 2 per cent. interest on deposits, a very mild penalty or forfeiture of 6 per cent. interest on any short fall below 80 per cent., these are all very gentle inducements. But what are we to do about the assessee who says 'I have no interest whatever in this measure; I do not propose to take the slightest notice of it; it may possibly cost me Rs. 50 or Rs. 100 but I just defy it; do what you like', or, again, the assessee who says 'very well, you say I must make an estimate of my current income. I assess Rs. 20 or Rs. 100 or something perfectly ridiculous'? There is nothing in this Bill, Sir, which would deal effectively with complete contumacity and barefaced evasion of the whole principle of the scheme. My Honourable friend talks about the prestige and so on and the influence of the Income-tax Department, and he instanced the fact that they actually do sometimes ask questions about the total wealth of an assessee even though they are not empowered by the Act to do so. But surely the question is, can they always get an answer, and if they cannot that is surely the point. If they have not got the power to enforce the answer to such a question

Mr. T. T. Krishnamachari: How many cases does this Department know where answers have been withheld?

The Honourable Sir Jeremy Raisman: As a matter of fact, my information is that answers have been withheld in a very large number of cases and that instruction is virtually in abeyance. Although there is this to be said. A company has got to present its balance sheet, in the case of a company you have got to see the assets because you cannot judge the profit and loss unless you know the whole state of affairs. (Interruption.) Even in England it is common practice, where any question of doubt arises, to say to the assessee, "well, put your cards on the table and let us dispose of all doubts; if you tell us what your complete assets are, we can check whether there is anything wrong about the statement of your income'. I must say that *prima facie* it seems to me to arouse, at any rate, a suspicion in one's mind if the assessee is not prepared to put all his cards on the table, but that is entirely irrelevant to the present point. My contention is that conceptions like prestige, influence and so on are of no avail, what you require is an actual sanction, and, after all, every measure must have a sanction. My Honourable friend admits that this is a scheme of compulsory deposits. I agree. But if it is to be a scheme of compulsory deposits there must at some stage be a compelling provision in the law. And where is the compelling provision in the Bill?

Mr. T. T. Krishnamachari: The ultimate sanction exists.

The Honourable Sir Jeremy Raisman: It may exist in the mind of my Honourable friend but, unfortunately, what is necessary is that it should appear in the law.

Mr. T. T. Krishnamachari: You are not repealing the Income-Tax Act!

The Honourable Sir Jeremy Raisman: My Honourable friend said a good deal about penalties, but our record in the matter of penalties is very good and when they have come on appeal before any judicial body they have on the whole received a very fair measure of approval or confirmation from those higher tribunals, and that I submit is a very important thing. The proof of the pudding is in the eating of it. I do not agree, in fact, I stoutly deny that the Income-tax Department uses the compulsory sections of the Act as a means of oppression or that their record in the matter of penalties would not stand comparison with that of other administrations. Hence I feel, as my Honourable friend says, that this is fundamental and it is absolutely essential that this Bill if it is to have any value should have a sanction embodied in it and I must firmly oppose any attempt to remove that sanction from the measure.

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

“That in clause 5 of the Bill, sub-section (9) of the proposed section 18-A be omitted.”
The motion was negatived.

Clause 5, as amended, was added to the Bill.

Clauses 6 to 13 were added to the Bill.

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

“That in clause 14 of the Bill, in the proposed clause (d), for the figure ‘12’ the figure ‘15’ be substituted.”

By this amendment of the Select Committee the position of the assessee has been worsened than what it was under the draft Bill. In the draft Bill there were two clauses instead of the one clause which we find here. The two clauses were (d) and (e). Clause (d) in the Bill read: “8½ per cent. of renewal premiums received during the preceding years for policies for which the annual premium payable is less than 12 per cent.” and so on. Sub-clause (e) was: “15 per cent. of all other renewal premiums or the actual expense ratio whichever happens to be less”. Sir, the only reason given for amending the two clauses and putting them into one, as we find it in the Select Committee Report, is this. This is what is said:

“By our first amendment we have removed the distinction made in the Bill between the renewal premium on policies for less than 12 years and renewal premiums on policies for twelve years or more, fixing the figure at 12 per cent. in both cases.”

This is the reason given. This has the effect of simplifying for the companies the procedure for calculating the tax when reducing the allowances proposed in the Bill. This is the apparent reason which has been given but I may be allowed to point out that even without this, was it ever thought that the accounting, according to the rules laid down, would be very difficult? Why was not simplification the only consideration? I submit this flat rate of 12 per cent. is to the detriment of the assessee. Under the draft Bill according to the two clauses he would have stood to benefit more than what he stands here for. I have suggested the figure ‘15’ for the figure ‘12’. I have no doubt that, as my friend, Mr. Krishnamachari, has said, the Finance Member with his silvery tongue and good reasons and indifferent reasons, and the numerical strength behind him, will be able to support his amendment, but I have no doubt that Mr. Krishnamachari will support this.

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

“That in clause 14 of the Bill, in the proposed clause (d), for the figure ‘12’ the figure ‘15’ be substituted.”

Mr. T. T. Krishnamachari: I rise to support the amendment of my Honourable friend, Mr. Deshmukh. At any rate, I am gratified that I have been able

[Mr. T. T. Krishnamachari.]

to enlist the help of a third person as well. Since the Select Committee met, I have been advised by the Indian Life Insurance Offices Association that the change made in the Select Committee, which it was then thought was a change for the better, is not really so. The original Bill that was introduced before the House had two sub-clauses (d) and (e): under (d) 8½ per cent. of renewal premiums received during the preceding years for policies for which the annual premium payable is less than 12 per cent. and so on, and under the second, clause (e) 15 per cent. of all other renewal premiums or the actual expense ratio, whichever happens to be less, were allowed to be deducted under management expenses. When the amendment was made in the Select Committee, we were advised that it was a better one for the companies concerned for the reason that it was better to fix the quantum on a simple basis of a flat 12 per cent. instead of having two scales of 8½ per cent. in certain cases and 15 per cent. in the case of the other types of policies. It now transpires that the change is not for the better. It is definitely for the worse and I would respectfully submit, and I would ask the attention of the Honourable the Finance Member so that he might not deny at any rate that at that time we felt that the change was for the better, that if it is now shown by interested parties that the change is for the worse, either you should better the position by accepting the amendment moved by Mr. Deshmukh or you go back to your original clauses. It was true we had the benefit of the presence of the Government expert in the Committee but I do not know if at that time that gentleman himself was misled. He gave us to understand that it is possible in some cases, or at any rate in the case of one company in this country, the total expenses, in respect of all premiums put together excepting the first year's premium, to be somewhere in the region of 12 per cent. It might go up in some years. Generally it is just about 12 per cent. I am now told that it is not so: that even in the case of that particular firm which we took as an example, the rates are higher.

Besides, if the Honourable the Finance Member will take up the expense ratio of the first 12 leading life insurance companies in this country, it will be found to be in the region of about 15 to 17 per cent. What actually happens is that life insurance companies are paying tax even on amounts which are *bona fide* expenses, and as expenses vary, it is only reasonable that the Department should say, we will give you benefit of management expenses up to a particular point, and beyond that, it is your responsibility unless you, in course of time by prudent management, bring down expenses. It is no doubt a fact that so far as English companies are concerned, the expenses of management are considerably less, but in England insurance is a habit, and one has not got to be persuaded into insuring, saving is a habit, and the Government has not got to appoint a National Savings Commissioner. Conditions vary in this country and in England so much that there is no need at any rate to import conditions that are obtaining in England or the example that is being followed in respect of assessment to income tax of insurance companies in England. But, Sir, I take my stand on this. In the first place, I emphasise the point that in the case of the first 12 leading Indian companies the expense ratio is higher than 15 per cent., and is about 17 per cent. Even in the case of the one firm about which we considered, the ratio is higher than 12 per cent. If you say that you are not going to allow these people anything more than what you thought of conceding by means of the original draft Bill the alternative for you is now that—there has been an authoritative pronouncement—I have got a telegram from the Indian Life Offices Association, telling me categorically that the position is now worsening—the alternative for the Government is to seek the permission of the House and your permission, Sir, to go back on this amendment made by the Select Committee to the provisions of the original Bill as it was introduced in this House. I dare say that still the question of simplification, on the basis of simply fixing the quantum, as has been done in this case, has its attractions. If the Honourable Member who is responsible for the administration of income-tax feels, "I won't give you 15 per cent. I will give

you 14". I will agree probably to 14 per cent. I have been advised that under the original provisions the benefit that will accrue to the insurance companies works out comparably to a flat rate of 14 to 14½ per cent. Actuaries might differ and working might be under different conditions, but there is one estimate that is before you. If the original provisions of the Bill are restored, then it will work out to the rate of 14 to 14½ per cent. So, I suggest if you want a simple basis, accept 15 per cent. If you do not want a simple basis, go back to your old position and do not let us now stick obstinately to a provision which we have, through inadvertence and bad advice and not having examined the position in all its aspects fully in an one day sitting of the Select Committee, blundered into. I think there is no prestige involved in either the Select Committee Members or the Government owning that they have committed a mistake. Everybody makes mistakes and I suggest the alternative open to the Honourable the Finance Member is not to say, "I refuse to accept the argument put forward by the Honourable Mover of the amendment and its supporter, I therefore, stick to the provision as it now stands". He can only say, "I will go back to where I began". I think for once I have got the Finance Member on the horns of a dilemma—a device which he so often adopts, asking us to make the choice one way or the other.

Sir John Sheehy: I am afraid I must oppose the amendment.

Mr. T. T. Krishnamachari: On grounds of prestige?

Sir John Sheehy: No. The suggestion was made that we should go back to the original position in the Bill. In the first place, there is no amendment put down to that effect.

Dr. P. N. Banerjee (Calcutta Suburbs: Non-Muhammadan Urban): If it is an agreed amendment it can be accepted.

Sir John Sheehy: It is not agreed.

Dr. P. N. Banerjee: You do not agree. You were wrong in the beginning.

Sir John Sheehy: We were wrong to this extent that the Select Committee has bettered it. It makes it easier for everybody to work and it is not worse in the majority of cases than the original provision. Let us confine ourselves to the proposition that we should change the figure to 15 per cent. This would not be necessary, in fact no percentage would be necessary in U.K. because, there the expense is somewhat less than 8 per cent. So, this question would not arise. The first point that I would like to state as regards Indian companies is that it is only the older Indian companies that are concerned in this amendment. The younger companies are all assessed on another basis, on the average annual valuation surplus. It is only the older companies that are concerned in this amendment, and these are companies which we should expect to go in for economical management. Are you going to encourage uneconomical management by raising the figure to 15 per cent.? As regards the expense ratio figure that Mr. Krishnamachari gave for Indian companies, I have got here for 13 senior Indian companies the figure for 1942 and it is about 14.2 per cent., and some of the Indian companies show a ratio less than 12 per cent., which we have got in the Bill. I do not, therefore, think that this figure will involve any hardship. I, therefore, oppose the amendment.

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

"That in clause 14 of the Bill, in the proposed clause (d), for the figure '12' the figure '15' be substituted."

The motion was negatived.

Clause 14 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Jeremy Raisman: Sir, I move:

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

There is only one general observation that I would like to make. In the course of the debates on the Finance Bill more than one speaker complained that we had reached a stage at which in matters of income-tax the honest assessee was being penalised because of the extent of evasion that was taking place I am very conscious of the force of an argument of that kind. One

[Sir Jeremy Raisman.]

Honourable Member ventured to estimate that if we could only enforce adequately and efficiently the income-tax law, the rates of income-tax and super-tax necessary in order to provide Government requirements might be reduced by as much as 25 per cent. I do not know on what basis such an estimate could be made but it is quite clear that to the extent we leave loopholes in the system of legislation or administration, to that extent we definitely penalise the honest and invite the dishonest or the assessee with a more elastic conscience, to profit by these opportunities. For this reason I think the House was right in supporting the Government in resisting various amendments which were calculated to relax the rigour of the provisions necessary to deal with those who do not play the game. We have reached a stage now at which there are many measures which it is desirable to take, and in regard to which one may always say, "The good boys will play". I am sure that at any rate 60 or 70 per cent. will be sufficiently in sympathy with Government's general policy and will be sufficiently desirous of improving the financial condition of the country to carry out what you require even though your measures may not have the full force of compulsion. But it is very unsatisfactory to feel that only those who really have the utmost claim to Government's consideration suffer the full rigour of Government's enactments. and I think that it is extremely desirable that we should concentrate our attention on roping into the net, and applying the rigour of these enactments to, those anti-social elements whose greed and cupidity actuate them to try and avoid their fair share of the obligations of the present time.

Mr. President (The Honourable Sir Abdur Rahim): Motion moved: "That the Bill, as amended, be passed."

Mr. T. T. Krishnamachari: The Bill has now reached the last stage and I have only one remark in this connection. I should like to draw the attention of the Honourable the Finance Member to the appeal made by my Honourable friend, Sir Henry Richardson, the other day, namely that administrative direction should be given for the alleviation of hard cases. To begin with, this year, I think the Government would do well to give administrative direction that the new proviso that has been added to clause 5 by an amendment moved on the floor of the House this morning should be made a matter of general application for the current year. The time between now and the time when the first instalment will be due is very short. We are now in April. The Bill will have to go to the other House before it becomes law. There is also the question of publication, of advertisement telling people what they have to do. It is a very long process. I would, therefore, ask the Honourable the Finance Member to give the administrative direction asked for by Sir Henry Richardson for the alleviation of hard cases, in the first year, at any rate, by making the scope of the new proviso to clause 5 apply to all assesseees generally, so that the first amount of compulsory deposit due will be due on the 15th September and not on the 15th June. An assurance on the floor of the House will go a long way to tell people how to prepare, their accounts and when to pay. I would respectfully submit that no serious harm will be done, since it would take a long time to educate the assesseees in the process of making these advance payments. That is all I have to say at this stage.

Sir Henry Richardson (Nominated Non-Official): Sir, I wish to reiterate the support of the European Group to the third reading of this measure. I particularly want to make this quite clear because despite the fact that in my previous speech I stated a number of times that we supported the principle of advance payments as an anti-inflationary measure I was surprised to find that my remarks were misconstrued by the Honourable the Finance Member. I would like to point out that at no stage was this Bill opposed by us and the Central Board of Revenue were fully aware that our constituents regarded the non-provision of legislative protection for cases of genuine hardship with considerable apprehension. I wish to thank the Honourable the Finance Member for giving the assurance that administrative instructions will be issued in regard to such cases

and for my part, having explained in my previous speech the fears on which such assurance was sought, I am satisfied. It now only remains for the Finance Member's department to see to it that sufficient and due care is taken in the directive to be issued, so that the absence of legislative protection will be no excuse on the part of any income-tax officer for not affording alleviation in some form or other in genuine cases.

The other assurance for which I asked was regarding the temporary nature of the measure and in making my case for requiring this assurance, it was necessary for me to make clear the grounds on which those whom I represent objected to the advance payment system being made a permanent feature of taxation. I understood from the Honourable the Finance Member's reply not only to my request but also to a question asked by my Honourable friend, Sir Cowasjee Jehangir, that the Finance Member's own object was to deal with the present situation and that the measure was temporary for so long as he considered it necessary in the country's interests.

I am grateful for these two assurances, but since the Honourable the Finance Member expressed surprise that I should have voiced certain views on the second reading which I had not been in a position to do at an earlier stage or in the deliberations of the Select Committee, I must say that this is yet another of the many illustrations of Government's failure to appreciate the necessity for much more time being given the public to formulate opinion—and the necessity for this is far more important in the case of such a measure as this Bill which affects so many interests. I admit that in the present instance, realising the necessity of getting the Bill through this House within a certain time, we agreed to the date fixed for the Select Committee, since, on the principle of advance payments as an anti-inflationary measure there was no disagreement amongst our constituents. But as regards the time available, what are the facts? In between the presentation of the Budget and the sitting of the Select Committee, only ten days were available in which to send copies of the Bill all over India for consideration and views. Allowing for present postal delays, it is obvious that very little time indeed was available to our constituents in which to digest such a highly technical measure. I am certain that it took the Finance Department more than ten days to draft the measure and consequently I do not think any surprise should have been expressed at my having to voice views which obviously constituents had not time to formulate in the few days at their disposal before the Select Committee sat.

Finally, Sir, I am bound to refer to the Honourable the Finance Member's more personal remarks made at the close of the second reading. Referring to my speech, he said that he did not appreciate the form of "suppleness"—that was the word he used—whereby I placed on record the fears of my constituents in respect of a measure which, in spite of those fears, we still supported. This stricture upon the attitude of a Group which has consistently supported war taxation was, in tone, more severe than that which he applied to those who have consistently opposed and obstructed such taxation. I have already referred to the difficulty of digesting a highly technical measure in a matter of a week or so—we are not income-tax experts and if we are not fully prepared to give a detailed opinion within ten days, the fault does not lie with us. My right to place our attitude upon record is presumably undisputed and I exercise considerable restraint when I say that his remarks were felt to be unfair.

Mr. R. B. Gupta: Sir, since all the amendments which were moved from this side have fallen through, I must say that the House did not consider
 1 P.M. them in a way to press them but to express their apprehensions about several clauses of the Bill which are liable to inflict hardships on the people. Since the Honourable the Finance Member was good enough to extend his assurance to the House on two or three important points, I will like to repeat those points so that the Honourable the Finance Member may see to it that proper executive instructions are issued to see that they are faithfully carried out. In the first place, he has assured the House that wherever there is a genuine case of hardship in depositing the advance payments, the Department

[Mr. R. R. Gupta.]

will give sympathetic consideration by extending exemption to such cases. Secondly, he has also assured the House that the application of section 28 will be made only in rare occasions. Unless the Department is satisfied that the case is absolutely genuine, section 28 will not be applied. So far as I understand the working of section 28, it is this. First of all, the case is referred to the Central Board of Revenue for sanction before this penalty clause is invoked. In this respect, the Honourable the Finance Member has referred to the practice prevailing in England and he said that they also inquire from assessees their total income and the total wealth of the parties. I will point out that the system in England is entirely different in actual working to that of India. In England, whenever evasion cases are found, the Department deals with the assessee sympathetically and gives him the calculation on which the evasion is calculated by the Department and asks him if he can still give satisfactory explanation of the actual evasion. On receipt of that explanation, whatever penalty is imposed, the benefit is allowed to the assessee by getting that evaded income included in his standard year's profit. In India, the practice is entirely different. When you apply section 28 against any party, you do not give him any opportunity to explain his actual position to your Department. You sit on him in judgment as if he were a criminal before you. Then, Sir, when you have already assessed his income and imposed a penalty, you still deny him the benefit to be included in his income of his standard years. I do not know what is the justice behind this procedure which your Income-tax Department had been following in this country. Having that fact in view, the Honourable the Finance Member can compare the system of administration prevailing in India with that in England. Therefore, my submission is that in this particular case, since we have already explained our apprehensions, we have already told you that the powers which you have taken are too much for this sort of provision in the Act. In view of all that, it becomes very essential not only that clear and specific instructions should be issued as to how the clauses should be applied against the assessee, but also it should be amply clarified to the Department, who actually administers the law, that the application of this amendment should be applied very sympathetically against the assessee. I hope the Honourable the Finance Member will not resist this demand and he will see that the instructions to his Department are issued in the clearest possible terms on those matters on which he has given the assurance to the House.

The Honourable Sir Jeremy Raisman: Sir, I have only a few words that I wish to say. Firstly, in regard to such assurances as I have given, they will be carried out in accordance with the words which I have used and in the spirit underlying those words. What, will be the precise form which the administration of them will take, I obviously cannot say, because it will require consideration. But I shall take into consideration the apprehensions expressed in this House and as far as possible, without defeating the object of the measure, I shall try and see that those apprehensions are met.

Now, Sir, I would like to say a word or two about the remarks which fell from my Honourable friend Sir Henry Richardson. I would like, in the first place, to admit quite freely that the support which his Group has always given to the Government in matters of war taxation has been of the utmost value and I very gratefully acknowledge it. He alluded to the difference of tone with which I expressed my surprise at the supposed change of attitude and he alluded to the severity of that tone as compared with the tone which is used to those who do not support war taxation. All I can say is that there are two types of critics I have to deal with. The first are those who undoubtedly are completely at one with me and with the Government in regard to everything relating to the prosecution of the war. Those I may refer, as it were, for these purposes as the inner family. We have something in common and if we differ, it is an entirely different matter from our differences with those who are not prepared to support the war effort or who are not prepared to support the financial measures which are necessary to ensure India's adequate participation in the war. They are, in

fact, two entirely different things. And my Honourable friend will no doubt have observed that often a note of acerbity creeps into these closer differences than when one is dealing with people who stand on an entirely different plane. But I am grateful to Sir Henry Richardson for explaining in some detail the reasons which necessitated a slight change of attitude—I must claim that it was a change of attitude—between the stage of the Select Committee and the stage of the consideration of clauses in this House. I recognise that he had his difficulties and that he was bound to put forward the apprehensions which his own constituents felt in regard to certain of the provisions of the Bill. In short, Sir, if I was moved by my surprise and irritation at that moment to express myself in a way which is unfair to the Honourable Member, which I admit is possible, I should like to make an *amende honorable*.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the Bill, as amended, be passed."
The motion was adopted.

MODIFICATIONS TO THE CENTRAL EXCISE RULES.

Mr. President (The Honourable Sir Abdur Rahim): The House will now take up the proposed modifications to the Central Excise Rules, 1944.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions: Non-Muhamadan Rural): Sir, as a practical man, I believe that in matters of difficulties and grievances arising out of the administration of the Tobacco Excise Rules, a discussion over the table is more effective and fruitful than a formal motion on the floor of the House. I feel certain that there is a greater chance of redress of the grievances of the tobacco people, if they are presented before the Honourable the Finance Member outside this House in a small informal conference. He has very kindly assured me that he would give me a hearing on behalf of the various interests. Sir, under these circumstances, I do not propose to move the amendments.

THE HINDU CODE, PART II (MARRIAGE)—*contd.*

Mr. President (The Honourable Sir Abdur Rahim): Further consideration of the following Motion moved by the Honourable Sir Asoka Roy on Friday, the 3rd March, 1944, namely:—

"That this Assembly do recommend to the Council of State that the Bill to codify the Hindu Law relating to marriage be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of 18 Members."

Mr. Ananga Mohan Das (Surma Valley *cum* Shillong: Non-Muhamadan): Sir, I was telling the House the other day about the effect of the law of monogamy on the Roman Society. I was telling that monogamy was good and desirable, but to enforce monogamy compulsorily by law will lead to undesirable social and moral results. I do not want to take up much of the time of the House. I shall say a few words on general principles. I do not think it is the duty of the State to impose any ethical ideal on society by legislation. In enacting laws, it is the duty of the State to see that no injustice is done to any member of the society. It is the duty of the Legislature to make laws which do not unnecessarily infringe upon the rights of any individual. Man is not made for law, but law is made for man. Have the Rau Committee collected any statistics of the instances of polygamy? The Committee have not collected statistics to show that even in this present day degenerate Hindu society monogamy is not strictly adhered to and therefore any law is necessary. The new law is not meant for fighting out the evil practices, but only for giving the Hindu society a new ideology, so that the Hindus may not err in their ideation and thinking. I submit there is no necessity for this law at all. I will now refer to what a Madras lawyer has said.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can resume his speech after lunch. The House will now adjourn.

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

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

Mr. Ananga Mohan Dam: Sir, before we rose for lunch I was referring to the opinion of the eminent Madras lawyer as quoted by the Committee. It says:

"The time has certainly come for Hindu Society to discard polygamy as a rule of Hindu law."

Of course the lawyer may say that but there is absolutely no demand on the part of Hindus for a change in their personal law. The only benefit of codification is that there would be easy reference to particular rules. Again in this connection it is interesting to note that the other great community of India, the Muslim community, has decided to go by the *Shariat* Act of 1937 in all important personal matters. Like the eminent Madras lawyer I am inclined to think that with the progress of education and enlightenment in the Muslim community the time has certainly come for discarding polygamy as a rule of Muhammadan law. If the State thinks that the introduction of monogamy is the way of all-round development of society, I shall request the Government of India to introduce a law calling upon the Muslim community to discard this rule of polygamy from their law; and I shall request my Honourable friend the ex-Law Member to help his community in its forward march on the path of progress.

Politically speaking this restriction on marriage will have an adverse effect on Hindu society. Nowadays the seats in the legislature are based on the numerical strength of the different communities; and if the Hindus are numerically smaller their seats will be necessarily less. So the Hindus will be committing racial suicide by introducing this monogamistic law.

Then, according to the orthodox Hindu view there is not and cannot be and ought not to be an nullity of marriages. Compulsory monogamy is bound to bring in a proposal for divorce in Hindu law to complete the picture. Therefore we ought to inquire whether in European society domestic happiness of the individual members has been increased by contractual marriage and consequent dissolution of marriage by divorce.

Sir, the same lawyer says of the Marumahakathayam law of Malabar:

"They have become monogamous. But the fact is that the Madras law has introduced only the old Hindu law allowing exceptions to monogamy."

Again there is an insinuation in the report that Hindu society does not do justice to motherhood,

Mr. Deputy President (Mr. Akhil Chandra Datta): In which report is it?

Mr. Ananga Mohan Dam: I am reading from page 9, the explanatory notes of the Bill by the Rau Committee.

"We ourselves strongly feel that no law of marriage can be looked upon as satisfactory unless it does justice to the mothers of the race."

The implication is that the Hindu law as it exists does not do justice to motherhood.

Mr. Govind V. Deshmukh (Nagpur Division: Non-Muhammadan): The mothers will speak for themselves.

The Honourable Sir Sultan Ahmed (Leader of the House): It does not say that.

Mr. Ananga Mohan Dam: Very well, but in another place they say:

"In these days when equality of women must be recognised at least in this connection, it would be folly to postpone this reform and it is no longer in accordance with modern enlightened opinion as to the status of women or the standard of justice that should govern marital relations."

It shows that the status of women was considered in relation to the western ideal. By enlightened opinion I think they mean western opinion. I say that Hindus also had enlightened opinion in their own way long before western people could think of the status of women in this modern light. In Manusmriti we find:

"Jatra narjyastu pujiyante ramante tatra devata,
Jatra narjyas na pujiyante sarbastatra fala kriya."

"Where women are honoured the Gods reside, and where women are not honoured all works are fruitless."

This is the enlightenment of the Hindus expressed by Manu long before the Christian era. If we compare it with the enlightenment of the western people even in the 18th century, we find that Rousseau, the modern apostle of the gospel of equality, urged that the education of women should always be related to men since to please man was the supreme object of their existence. That is how Rousseau states the condition of their society in the 18th century. So, we Hindus give no inferior status to women than these civilised people outside India. It is the Hindu who respects motherhood and it is the modern Europeans and their ultra-modern Indian followers who respect the wifehood of women. In European society women are treated with gallantry but not with respect; but we worship them as goddesses. Then, the eminent lawyer says:

"Today, women, especially educated women, are deeply discontented with the present law and I have no doubt that many educated men also share their views in this matter."

Sir, I also sympathize with those discontented women and I admit that everything should be done to give them relief in just and proper manner. But in this connection I must request my Honourable friends in this House not to forget the discontented educated men who find it impossible to marry again when their first marriage had proved most unhappy. You can imagine their lot when educated wives decline to live under arrangements described as 'separation' because they know very well that they cannot assure to themselves the life of liberty and luxuries they make their husbands pay for.

An Honourable Member: Is there any personal experience involved in it?

Mr. Ananga Mohan Dam: No, sir.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Your wife is educated no doubt?

Mr. Ananga Mohan Dam: She is educated but not up to the standard which the modern man wants.

Then, there is one point more. I leave out the details. The Law Committee has paid no heed to the advice of scientists. They have expressed their opinion in favour of consanguinous marriages which is deprecated by scientists. Modern scientific researches have explained the results of consanguinous marriages in numerous reports. Dr. S. M. Berwis (Washington) says:

"My researches give me authority to say that over ten per cent. of the deaf and dumb, and over five per cent. of the idiotic in our state institutions are the offspring of kindred parents. The frequency of imperfection of the children of such marriages has been noticed from the time of Moses or earlier and is proved by the fact that all the great moral codes—Hindus, Mosaic and Roman—have all forbidden such unions."

Then, another authority Dr. Frederic W. Price, M.D., F.R.S. in his 'Medicien' quotes the view of Dr. Eric D. Macnawara:

"Consanguinity of parents has been supposed to be a cause of mental defects in children such as idiocy, imbecility, feeble-mindedness, moral imbecility, degeneracy, and oligophrenia, etc. This is also the view of Dr. Fletcher Beach, Shuttleworth, Osler, Savile and many others."

There are other opinions also, but I am not going to quote them for want of time. In this connection, I would like to mention one more point and that is about human psychology. My Honourable friend, Pandit Nilakantha Das, has written a book in Orya—*Satitwa O Nari* (Chastity and Woman) and he has quoted the following from "Psychology of sex" by Havelock Ellis:

"George Pitt Rivers, in the supplement to his suggestive work, "The Clash of Culture" (1927), argues that "man like many animals, is a polygamous species (though Christian "monogamy" is a disorderly mixture of polygamy and polyandry" and that a surplusage of adult females over males is a necessary condition of the stabilisation and continued vigour of the human race."

It must, however, be remembered that the normal sex-ratio inevitably limits any polygamous tendency, even if beneficial. Havelock Ellis in Psychology of sex quotes Dr. James also:

"Dr. James Hinton (in his unpublished work) holds—"In Western Society there are fewer men who are genuinely monogamic than are to be found in Eastern polygamic Societies. Monogamy, as established, is an essentially selfish and unsocial institution and is responsible for prostitution. We arrived at it too soon, for it is a mistake to convert an ideal, however good, permanently into a universal legal form. The result has been that, though ostensibly existing to avert licentiousness, it has called out more licence than a polygamy could have led to."

This is given on page 241 in 'Psychology of sex'.

Mr. Govind V. Deshmukh: Nobody is going to read the book; you need not give page numbers.

Mr. Ananga Mohan Dam: Then you take my word.

Mr. Govind V. Deshmukh: Certainly your views and those of Pandit Nilakantha Das are worthy of being taken notice of.

Mr. Ananga Mohan Dam: Yes, because he is an authority on Orya literature.

My point is, Sir, that either you should follow Hindu law which does not sanction divorce but allows second marriage, or Christian law which prohibits polygamy but allows divorce. With these words, I support the motion of my Honourable friend, Babu Baijnath Bajoria. As the Honourable the Law Member has said that details of law will be discussed in the Select Committee, so I do not wish to go into them.

Dr. Sir Ratanji Dinshaw Dalal (Nominated Non-Official): Mr. Deputy President, I will not detain the House for more than three or four minutes. I support the motion to refer this Bill—The Hindu Code, Part II (Marriage) Bill—to a joint select committee of both Houses—the Legislative Assembly and the Council of State (Interruption). The object of my intervention in this debate is to make only one point: I desire to make an important suggestion. Sir, I submit that both sexes—man and woman, husband and wife,—should have a status of complete, perfect, and honourable equality. Equality between the two sexes is their birth-right (Interruption by *Sir Ahmad Nawaz Khan*). Sir, will you kindly shut up this Honourable gentleman?

Mr. Govind V. Deshmukh: You get along; do not mind interruptions.

Dr. Sir Ratanji Dinshaw Dalal: So, I suggest that advantage may be taken of this opportunity to secure that equality. Now-a-days there is a growing feeling; genuine and sincere, that sex inequalities should be removed. As a result of inequality between the two sexes, a woman has to expose herself to inconceivable miseries, sufferings and hardships. A married woman, who finds no respite from her troubles, sorrow, and grief, seeks relief and comfort from her soliloquy. This soliloquy refers to mutual fidelity. So, Sir, with your permission and if the House will bear with me, I shall proceed to explain what this soliloquy is, but if it is not the pleasure of the House, I shall resume my seat.

Mr. N. M. Joshi (Nominated Non-official): We want to hear.

Some Honourable Members: Yes, go on.

Mr. Deputy President (Mr. Akhil Chandra Datta): Do not exceed the time limit imposed by yourself!

Dr. Sir Ratanji Dinshaw Dalal: The unfortunate woman goes to a solitary place, and she thinks to herself like this. I think it is their husbands' faults if wives do fall. They slack their duties, and pour our treasures into foreign laps, or else they break out in peevish jealousies, throwing restraint upon us.

Mr. Deputy President (Mr. Akhil Chandra Datta): I hope you are speaking on the Bill?

Dr. Sir Ratanji Dinshaw Dalal: This soliloquy refers to mutual fidelity. Why, we have galls, and though we have some grace, yet we have some revenge. Let husbands know, their wives have sense like them. They see and smell, and have their palates both for sweet and sour, as husbands have. Men are all but stomachs, and we are all but food. They eat us hungerly and when they are full, they belch us. What is it that they do when they change us for others? Is it sport? I think it is. Does affection breed it? I think it does. Is it frailty that thus errs? It is so too; and have not we affections, desires for sport, and frailty as men have? Then let them use us well, else let them know, the ills we do, their ills instruct us so.

Now, Sir, in conclusion, may I be allowed to express a hope that Honourable Members will treat this soliloquy as Chesterfield's advice, and will also preach this admonition and such usage to their constituencies.

Sir, I have done.

Shrimati K. Radha Bai Subbarayan (Madura and Ramnad *cum* Tinnevely: Non-Muhammadian Rural): Mr. Deputy President, amidst the gloom that surrounds us today and when the Government is relegating to an indefinite post-war future schemes of vital and immediate importance to the people, it is refreshing to deal with a measure of reform which the country has been greatly in need of. But, Sir, my pleasure is more than tempered by the remembrance that the Government of India denies us the benefit of the views of several of our colleagues and that the accredited leader of the woman's movement in India is prohibited from speaking in public or giving her opinion to the press. The policies and actions of the Government are often so contradictory that it is difficult to understand if they are really in earnest about the progress in our country. They favour one of the women's organisations of India with nominated representation in this House, but they prohibit the founder, *ex-President* and patron of that very organisation from expressing her views in public, either by speaking or through the press. The Government want to enable women in rich families to inherit a share of the wealth of their fathers and husbands, but they have no qualms about sending ignorant women to work down inside the mines, even though that involves a breach of an International Convention. They introduce this Bill to establish monogamy but they have no objection to the Ruler of a State coming into British India for the purpose of contravening a similar law that he himself had enacted in his own State and committing bigamy.

The Honourable Sir Sultan Ahmed: I submit that this is not in order as to what a Ruler of a State has done somewhere else. We are not legislating for the Ruler.

Shrimati K. Radha Bai Subbarayan: I am not saying we are legislating for a State but that it is difficult to understand the contradictions of this Government.

The Honourable Sir Sultan Ahmed: India has nothing to do with that.

Mr. Deputy President (Mr. Akhil Chandra Datta): You can criticise the Government but not the Ruler of an independent State.

Shrimati K. Radha Bai Subbarayan: I hope the Government is earnest with regard to this Bill and that they will not only proceed rapidly to place it on the Statute Book but also enforce it effectively.

Mr. Deputy President (Mr. Akhil Chandra Datta): That you are entitled to say.

Shrimati K. Radha Bai Subbarayan: Like all citizens I am greatly concerned with the welfare of our country, and as a woman I am deeply interested in matters pertaining to women in particular. No thinking person will deny that political freedom is of vital importance to our country, but it is equally true that without social reform there cannot be real happiness and peace for our people. Speedy release from the old and hoary social conditions which have become clogs to her progress and impediments to her healthy development is essential to make political freedom real.

These customs and laws weigh most heavily on our women and retard their advancement, which as our great leader, Mahatma Gandhi said, is essential to the true regeneration of India. These customs and laws might have given satisfaction in olden days when the joint family system educated the heart and mind to understand generosity and love and to attach great sanctity to family ties, but they do harm in modern India. It is in the nature of things for changes to come in every sphere of a country, but in India these changes unfortunately have not been effected rapidly enough to promote uniformity and harmony. Our civilization is changing slowly and absence or delay in effective legislation has allowed many of its good features to disappear and mouldy customs and laws to continue causing injustice and disharmony. These, as I said before, weigh heavily on women and ruin their peace and happiness, as well as of their homes. It is, therefore, imperative to amend them to suit modern conditions. This Honourable House has already dealt with legislation to reform some of them but there is still a great deal to be done before the injustices and disabilities under

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which our women suffer are completely removed. For this purpose some of my colleagues on these benches have tried to bring forward certain measures for the consideration of this Honourable House. The Hindu Law Committee, I would remind this House, was the ultimate result of a resolution sponsored by the Congress Party in 1939. The Bill to reform marriage laws were deferred to await its findings. This Committee has done valuable work and the country is anxiously waiting to see the whole of the Hindu Law codified.

The main principles of the Bill which is now under consideration of this Honourable House were supported by the measures which we had advanced, particularly monogamy. I had myself given notice of two Bills with that ideal in view. The first Bill, "A Bill to restrain polygamous marriages amongst Hindus" applied only to Hindus and permitted any Hindu whose wife or husband was living, to marry again but only on certain conditions. It would have made polygamy difficult, but would not have completely prohibited it, and it would also have given some relief and security to the first wife. Every care was taken to avoid the use of any language which would have enabled the narrow-minded orthodox and very vociferous section of Hindu society to rouse the religious fervour and illogical opposition of ignorant people to this measure. But it was a pleasant surprise to me, Sir, that on circulating this Bill and discussing it with representative bodies and men and women of all classes and castes and communities, I found that it not only had the sympathy and support of the people but that there was a feeling among them that the scope of the Bill should be extended and that it should prohibit polygamy and permit divorce.

In the light of discussions with leading women's organisations and learned members of the legal profession this Bill was revised. The new Bill would have applied to all Hindus, Sikhs, Buddhists and Jains, and would have treated husbands and wives equally and specified the reasons on which the dissolution of a marriage could be sanctioned and a subsequent marriage performed. I would like to point out to the House, that, while drafting these two Bills and studying opinion on them, I was able to make a careful examination of conditions in the country and gauge the strength of opinion against polygamy. Our social conditions impress the vast majority of people in India of the urgency of enacting a law to establish monogamy. Women desire that polygamy should be prohibited (not merely the educated ones as some Honourable Members here imagine, but all those who think for themselves and express freely their own views) not only because it is wrong and causes much suffering, but also because it is highly detrimental to the peace and happiness of family life. Even when some prominent men and women contracted bigamous and polygamous marriages, society has not failed to show its disapproval. Neither wealth nor position of the transgressor of human considerations should make any difference to the fundamentals of right and wrong. But there is a human failing in this world to overlook a wrong done by the influential and the wealthy, and it is, therefore, all the more important to prevent such wrongs being committed by anybody. Those who oppose this Bill on the ground that it violates existing religious beliefs will clearly recognise that religion has been most deplorably made a convenience and treated as a coat to be turned over and over again for securing dissolution of marriages. When one considers the reasons which in olden times were quoted to justify polygamy one realises the utter injustice of applying that reasoning to modern conditions. In those days the entry of a new wife under the joint family system did not cause neglect and desertion of a senior wife or wives, nor mar the peace and happiness of the home. It is evident that many of the wise maxims of our ancestors like our much misunderstood Manu are often conveniently ignored. They have laid down that the family "where the husband is contended with the wife and the wife with the husband steadfast is the blessing of God", that "no distinction exists between the wife and the Goddess of Fortune in the house". My Honourable friend from Assam has given other quotations, but the mere fact that these maxims exist in ancient

writings does not mean that they are being practised by Hindu society to-day. My Honourable friend representing the Marwari Association from Bengal—I am sorry he is not present here—referred to the *Kanyadan* ceremony in a Hindu wedding. I would like to ask him how often do a husband and his relatives fail to give his wife the treatment and love that are due to a *Kanyadan*?

Mr. Lalchand Navalrai: He considers them as white elephants.

Shrimati K. Radha Bai Subbarayan: Marriage was understood in olden days to involve the performance of sacred duties and the wife was a real and equal partner in life and not a mere ornament or a creature to supply the husband's needs, nor as the Raja of Manipur says "anti-dotal measure against bad stars".

The attachment between husband and wife was real and strong. These beliefs are typified in the diety *Ardhanariswara*. In the village of Tiruchengode there is an ancient temple on the top of a hill dedicated to this diety, in which he is represented as both Siva and Parvati in one idol; half the idol is man and half is woman. Evidently this was done to impress on the devotees the equality and mutual fidelity of husband and wife. There are many beliefs connected with this temple to convince people of these principles. I do not want to take up the time of this House by narrating all of them, but it would interest the House to hear of a particular one. There is a superstition that a childless couple would be blessed with a son if they made a pilgrimage to this temple on 12 consecutive new moon days and a second marriage would not be necessary. This belief seems to be strong as such pilgrimages have often proved successful. The most famous heroes and heroines of our ancient writings are monogamists—Rama and Sita, Savitri and Satyavan, Nala and Damayanti. Dasaratha's misfortunes were due to his polygamy and poor Draupadi's troubles were due to her polyandry. It was impossible even for such a great woman to have sufficient influence over her five husbands with different temperaments to manage their affairs with reason and tolerance and to live in peace and happiness.

A section of our people like my "Shastra-abiding" friends believe in the rightness of and support monogamy. Yet they will oppose legislation for it on the ground that polygamy is not common. It is true that polygamy is not as common as marriage, but it does prevail to a greater extent than is generally believed. Statistics, I am sure, would bring to light many amazing cases. Any one who travels extensively in this country would be surprised at the large number of instances especially in towns, where the first wife is undergoing much pain and suffering. Public opinion about right and wrong is more assertive in villages than in towns and polygamy is less in rural areas. Numerous letters and visitors have, since the publication of my Bills five years ago, drawn my attention to the most heart-rending condition of the deserted wives, some of whom have in utter despair committed suicide. The fact that the parties of a bigamous marriage, especially in what my friend from Bengal calls the upper strata, suppress the information about it, shows that they are really ashamed of what they have done. Even if it be true that polygamy is not common, should it not be suppressed just as any other evil? There are laws against murder, though murder is not common. Thieving, assault, drunkenness, etc. are not common but there are laws to prevent them. Laws are necessary to prevent any evil which does harm to society.

The strength of a democratic nation is believed to lie in their enlightened and happy homes. How can India be sure of having such homes when the canker of polygamy can mar their happiness and entail much suffering to women and children? How can children develop a strong national character? Home joys are the most delightful on earth, and have great humanising influence on parents and children and develop their finest instincts. What joys can there be in a home where mutual love and confidence and purity of conduct are lacking between parents? What influence can a mother have on her children, however devoted she be, when they see her neglected, ill-treated or deserted? Imagine the home of a child who innocently remarked to his playmates the

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other day, "I have four mothers, living in four corners of our house and I have one father who lives upstairs"! What will be the up-bringing of a child who learns early in life to cultivate insincerity and suppress his natural instinct to love his own mother, and pretend to be fond of the favourite wife of his father in order to please him? The atmosphere of such homes is bound to be deleterious to the younger generation. I am glad, Sir, that the explanatory statement includes the assertion that no law of marriage can be looked upon as satisfactory unless it does justice to the mothers of the race and I would add that I do not agree with the implication that has been imagined by some of our Honourable Members. If there were no other reasons for prohibiting polygamy, the miseries and sufferings of the neglected and deserted wives alone should be sufficient for legislation to give them some relief and to prevent such suffering for other women. In no country can legislation ensure marital happiness but it can certainly mitigate injustice, pain and suffering in homes. My Honourable friend from Bengal wants women to be good wives and go to Heaven but women want men also to be good husbands and go to Heaven. I welcome this Bill because it supports the principles of monogamy and equality between men and women.

There are, however, many modifications that are necessary to make this Bill a really useful law and I trust that they will be secured during the stages it has to pass through. Piecemeal legislation to amend existing laws has been shown by past experience to give rise to fresh difficulties and injustices and I would urge the Government and this Honourable House to make this Bill more comprehensive by providing for the dissolution of marriages on certain definite conditions and for the residence and maintenance of the divorced partner and for the custody of children, if any. It is erroneous to imagine that such legislation will disintegrate the family as there are frequent instances when a married man or woman goes through a farce of conversion and reconversion in order to get the first marriage annulled and to marry another person. It is surely far better to have laws which will permit such people to achieve their object by an honest and straightforward method.

The main outstanding features of this Bill are that it provides for inter-caste marriages and ensures monogamy. I do not intend to go into the details of the clauses of the Bill but I would like to make a few remarks to which I trust my Honourable friend the Law Member and other Honourable friends, who will be on the Select Committee, will give their earnest consideration. I think that sub-sections (b), (c) and (d) of clause 4 and the whole of clause 5 need careful consideration, especially as clause 6 and sub-sections (a) and (b) of clause 7 make them redundant. I agree with my Honourable friend from Bengal, though for different reasons, that this Honourable House has to deal with practical matters and is not in a position to define sacramental marriages and prescribe ceremonies for such marriages. A marriage vow is sacred no matter in which manner it is made and a marriage is a sacrament, no matter how the wedding is performed. Is it wise or necessary for a Legislature to lay down as a reformed law a procedure for a marriage to be considered sacramental involving vague symbols? What is a sacrament and what is a ceremony. Jurists are likely to give different interpretations and cause confusion. The definition of ceremony in the Oxford Dictionary includes expressions such as polite observance, outward form, stately usage, punctilious behaviour. Which of them does the word in this Bill imply? Does a ceremony need an audience or is it sufficient, as my Honourable friend from Bengal said, if a man and a woman have a pot of fire and go round it seven times? Would a wedding performed under Brahmo Samaj rites without the fire and with or without *sapthapadi* be considered a sacramental marriage? Will clause 7 apply to Brahmos because the Brahmo Samaj have not a uniform ritual which is adopted by the Brahmos all over the country?

We belong to the passing generation, Sir, and our laws are intended more for the younger generation than for the older one. It must be admitted that

there is a strong feeling growing in the country now, that weddings should be simplified and be less expensive and I fear that the conditions laid down for sacramental marriages will restrict the freedom of the people in this matter.

Another important point, I wish to draw the attention of the House to, is registration of all marriages. Five years ago, after consultation with the leading women's organisations in the country, I gave notice of my intention to move a Resolution about it in this Honourable House but as a result of the ballot, I was not able to do so. Civil marriages have to be registered but surely a simpler method could be found for keeping a record of what the Bill calls sacramental marriages. Progressive legislation like the Child Marriage Restraint Act and even this very Bill, when it becomes law, can be enforced more effectively if a record is kept of every marriage, giving minimum information about the parties to it. Such recording will also check the kidnapping of women and pretending that they are the wives of persons to whom they are not married.

Before I conclude, I would like to assure this Honourable House especially my Honourable friends who consider themselves as true Hindus, that while advocating reforms in our customs and laws, I am equally strong in my belief to hold on to all that is best and finest in our ancient traditions and culture. The vast constituency of men and women that I have the honour to represent in this Honourable House have given its verdict on these matters as they know that Congress is pledged to work for the removal of social evils which do not afford freedom and equality to all classes of people alike. I would remind them that on page 4 of its election manifesto of 1937 it declared that "it stands for the removal of all sex disabilities whether legal or social or in any sphere of public activity" and the result of the elections in the provinces that year proved that the country supported this policy in an overwhelming manner. Even in remote villages, where people have not had contact with the world outside, they recognise the urgency and importance of legislation for social reform. They believe as strongly and sometimes even more emphatically that practical reforms in our social system such as those embodied in this Bill will make our homes happier places not only for women but also for their children and ultimately for their husbands. There are, no doubt, many Hindu homes where women receive every consideration and affection but there are also several Hindu homes where she is treated with cruelty and indignity and the existing laws, rather than help her, leave her to the mercy of her husband. It is to prevent such suffering that this Bill is urgently needed and I do hope that my Honourable friend the Law Member will succeed in placing this Bill on the Statute Book without undue delay. I would urge this Honourable House not to consider this Bill either as a sectional or a party measure but to judge it only on human considerations and to appreciate the fundamental principles on which it is based and recommend such practical modifications as are indispensable for its success as an enacted law which would reach the remotest homes in this vast country and promote betterment of life among all sections of people.

Bhai Parma Nand (West Punjab: Non-Muhammadan): Sir, my first question is: What was the necessity of bringing in this Bill and the one before it? If we take this Bill as well as the other Bills as a measure of reform, all reform must be preceded by some kind of agitation among the people. Even if we consider that this is the concern of the Hindu women, the Hindu women should have started an agitation to introduce this reform in the Hindu society. But so far as I can see there has been no agitation at all and there has been no demand for this reform. We know there are cases in which marriage law has been changed. In the first place, it was perhaps in 1875 when the Brahma Samaj people first tried to change this law. They did not like to be a part of the Hindu Society. They wanted to be independent of it and for that purpose they introduced the Brahma Marriage Act. This Act was not applicable to the case of Hindus at all. It was originally intended that only those people could have recourse to the Brahma Marriage Act who did not consider them-

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selves Hindus. This went on for about 52 years. In 1923 Sir Hari Singh Gour wanted to have a change and the reason was, of course, very clear. He was himself a staunch Hindu but he had married a Christian lady. For him naturally the question was as to how he should behave in his society. He sought the protection of the Brahma Marriage Act and got an amendment passed in this very Assembly that all persons, if they declared themselves to be Hindus, could be married under the Civil Marriage Act. Then, there arose the question of the Sikhs, as there was an agitation on the part of the Sikhs that they should have a separate law for themselves. Naturally their leaders went to the Viceroy's Council and they got the Anand Marriage Act. So, those Sikhs who distinguished themselves from the Hindus had recourse to the Anand Marriage Act and they had ceremony different from that followed by the Hindus. Again, we have had a recent case of the Arya Samajists. Although the Arya Samajists were staunch Hindus, but called themselves reformed Hindus, therefore, there was a slight religious difference in the performance of their ceremony. Naturally, on account of that minor difference they wanted to have validation of their marriages performed according to their own way. Therefore, in this very Assembly some years ago a Bill was introduced for the validation of the Arya Samaj marriages. These were the three different kinds of marriages that are not performed strictly according to the Hindu law of marriage.

Now, in the present case if there was a demand for some kind of reform, we ought to have known from whom this demand had proceeded and there could have been some kind of agitation for it. Then, we would have come to the conclusion that there is really a demand for this reform. But when there is no demand for it and there is no need for it, how can we call it a reform of a religious custom? With regard to the subject under consideration one or two Resolutions were brought by one or two Members before this Assembly upon which the Government came to the conclusion that an independent Committee should be appointed to frame a Code of Hindu laws. This Committee has gone much beyond the scope of those Resolutions and they are not only introducing reforms but a sort of revolution in the Hindu society. The first part concerns the law of inheritance, which, I think, is simply an imitation of the Muslim law. The second part is about marriages and this is nothing but an imitation of the Christian law, in the matter enforcing strict monogamy. So far as I can see there is no demand for this change and the Government has taken a very wrong step in appointing this Committee, the leading persons of which have not much connection with the Hindu laws as their own actions show. They have already cut off their connection with the Hindu society by following laws which are non-Hindu. So, it is not right that they should frame any code of laws for us. They are not only framing a code of the Hindu laws but they are practically modifying the Hindu law altogether and are changing its fundamental principles.

Sir, I have seen the opinions that have been given on this question by a limited class of people. Most of them are Judges and lawyers. Some of the lawyers seem to be very fond of this reform because they think it will simplify the Hindu Law and will make their work very convenient and easy. They find that there are some difficulties in the Hindu law which they can very easily remedy by making it rather simple. But most of the Judges and experienced men find that this new code is going to undermine Hindu Law and create a sort of revolution in the Hindu society which it did not experience for the last thousand years. If it were a reform, the case would have been different, but it is a sort of a revolution for the change of the fundamental principles of the Hindu society. One of the Judges has told us that the object of this Bill is to satisfy those persons who are very fond of new slogans, such as, "Complete independence for women and sex equality between men and women". That seems to be the ideal or goal which our committees have before them in framing this law. The framers of this law have yielded to these slogans, but the question

is whether all-round equality between men and women is a possible affair. So far as this argument of equality between men and women is concerned, Hindus also believe that a woman should be honoured. Not only that, they think that she is mother and an object of worship by her husband, the children and other members of the family. She is the other half to complete the whole. I am puzzled by this demand for equality between men and women. What does equality mean? I do not see that nature has made them equal in every way. It is women who have to bear the burden of producing children and carry on human species. Of course, men have their part too, but it is a very convenient part. Men do not care to take any trouble for it. So, this claim of equality is quite unintelligible to me. I do not see where the inequality consists and how we can easily remove that inequality.

Major Nawab Sir Ahmad Nawaz Khan (Nominated Non-Official): They only want rights and enjoyment.

Bhai Parma Nand: As far as rights of women are concerned, no one objects to give them all the rights they want or desire. The Honourable Member who spoke before me said she wanted to introduce a Bill to make polygamy unlawful but permitting a man to marry a second wife in certain cases even if such permission amounted to bigamy. The Honourable Members are aware that among Hindus polygamy is very rare. It is practically non-existent. Even if there are cases of polygamy, such cases are always condemned by Hindu society. Generally such cases of polygamy occur only when the woman is barren or is suffering from some incurable disease. If we read the opinions on the Bill, we find that many people suggest that such exceptions should be made in this Bill. So far as I can see the Hindu society is already following the principle of monogamy. If a man marries a second time while the first wife is alive, he is always condemned. He is not looked upon with respect. It is said that a Raja or some rich men do marry more wives. But nobody can stop from doing so. They have power even to defy society. If they are not given some latitude, they are bound to commit more evils and thus spoil Hindu society altogether. This Bill, therefore, is in my opinion quite uncalled for and useless in so far as it makes the prohibition of polygamy so strict. There is a reason for it. Those people who have expressed their opinion in favour of strict monogamy, also recommend a law for divorce. If divorce is allowed in Hindu society, then it means the complete abolition of the present Hindu law and substitution in its place Rau committee law in the country. If there are a class of persons who are so much influenced by western thoughts and customs, then they are at perfect liberty to form themselves into a separate group, like Sikhs or the Brahmos or the Arya Samajists and pursue their own laws, according to their own inclinations. They can bring in legislation for themselves alone. On account of their new fangled ideas and views, they have no right to bind the whole Hindu society, millions of people who have got no concern with such ideas, and who have made no demand for such reforms. In fact they are not aware even of such a Bill being debated in the legislature. It was the duty of the Government to publish it for the information of the masses of the country. Of course, the lawyers or some Judges who have spoken in favour of such reform affecting Hindu religion and society are not authorised by the people competent to do so. There is no doubt that the marriage question, so far as the Hindus are concerned, is a socio-religious question, and no Committee, however learned or eminent the members thereof may be, has got the right to change the social customs and religious laws of the Hindu society. I do not know how the Government thought it proper to hand over the future of millions of Hindus, so far as their religious and social customs are concerned, in the hands of two or three persons. No Committee can have the power to change Hindu society wholesale. Mr. Rau and his colleagues are proposing these changes in our laws. (Interruption.) My Honourable friend tells me that even Mr. Rau does not believe in Hindu laws and customs. If he is not professing Hindu religion, we need not condemn him on that account. He is free to pursue his own line of thought and ideas. But he has no right to impose his views about marriage on all Hindus. Why should he try to pin the Hindus

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down to his own ideas about marriage? Why does he want the Hindu law about marriage to be changed in accordance with his own ideas? My view is there is the civil marriage law enacted by Sir Hari Singh Gour and those Hindus who have no faith in the sacramental marriage enjoined by the Shastras are at perfect liberty to invoke the civil marriage Act for their marriages. They have also the advantage of divorce which is permitted under the civil marriage Act. (Interruption.) The amendment introduced by Sir Hari Singh Gour related to Hindus only, where both the parties to the marriage were Hindus. They can have their marriages performed under the Civil Marriage Act. If there is a class of persons, say one in 1,000 who are imbued with western ideas, I do not see there is any necessity for them to bind the whole Hindu society by changing the law according to their own ideas. Where is the need for any Committee to introduce the principles of Civil marriage to Hindu marriages, religious and sacramental. Civil marriage was not meant for the Hindus. It cannot be made a part of Hindu law. The way is already open, there is no bar for such people to have full freedom as they like in the matter of marriages. Why should they blind others? This is my great objection to this Bill. On the plea of creating equality and granting of freedom to women the present Bill seeks to change wholesale the Hindu form of marriage.

Above all why should Government, who are pledged to religious neutrality, interfere in religious matters. The Government have no right to set up the Rau Committee for the interference in Hindu marriage laws. If what they consider to be beneficial to Hindu society, should be really so, then the Hindus themselves would have agitated for this reform. There has been no sign of any demanded for such reform. There has been a demand from a certain section of the people. Government are pledged not to interfere with religion and these Hindu marriage laws which exist for so many centuries are considered to be a religious matter, and, therefore, Government should avoid interfering in them. The same can be said of our Muslim brothers. If the Hindu marriage laws are defective one can say that similar defects exist also among the Muslims; and tomorrow Government will come and reform the Muslim marriage laws. When a point is religious or believed by people to be so, Government should not try to introduce changes unless they are wanted by the people themselves.

I have noticed in these opinions that certain women's organisations, about seven or eight in number, have spoken unanimously in favour of the Bill and they say that this should be passed "immediately",—that is the word used. That is the woman's way; there is no reason and no argument but they say it should be passed at once. If they are serious and earnest about it they should go to women all over the country and carry on a propaganda. These organisations consist only of a certain class of women; we know that class. I do not know if this Assembly will oblige them and pass this law "immediately": But as it concerns Hindu religion and Hindu society, I thought the best way for these ladies would be to seek the advice of some men who understand matters concerning the good of society, and have guided the destinies of Hindu society for thousands of years and who would be prepared to give to women their rights which are due to them. But without consulting any of them they say it should be done at once. I do not know how far it is logical. I have no prejudice against rights of women being granted; in these matters of religious and social customs their views should surely be given due consideration. A case has been referred to—that in some mountainous country women have to marry many husbands. That certainly is a defect. In Malabar also some customs are very peculiar and we do not understand them. But still these customs have developed through centuries, and the best thing the reformers can do, would be to go there and convert the people to their views; also go to those mountains and tell the people to change their customs. Even in that case it should not be needed for Government to interfere; the people themselves will change it. That is the best way to proceed about the business, and not through the legis-

lature to bring pressure on the people. There was passed a law of widow remarriage but it is more or less a dead letter, and even the most enlightened people among the Hindus cannot bring themselves to give their widowed daughters, etc., in marriage for the second time. That is the case in our part of the country: I cannot speak for the south to which my Honourable friend, Mrs. Subbarayan, was referring. Similarly, the Sarda Act was passed restricting the age of marriage. Nobody cares for it, and people wishing to avoid that Act go to some State and get the marriage performed. These reforms are useless if the people themselves do not want them or are not prepared for them. If ladies want this and think it will mean a better future for them they should go to the women all over the country and plead their own case. I am against the principle of the Bill. But as my Honourable friend the Law Member wants this Bill to go to Select Committee, I do not want to oppose it.

Mr. E. E. Gupta (Cities of the United Provinces: Non-Muhammadian Urban): Sir, I have full sympathy with the object of the Bill but I do not understand why this time should have been chosen for bringing in such complicated and controversial matters before this House for legislation. When there are so many other important matters pending in the country affecting the day to day life of the people which require immediate and urgent solution—like the question of constitutional changes in the country; that is being postponed on the plea that people are busy in the war—then, Sir, this is not the time for taking in hand a reform measure of this nature. I do not understand why this sort of legislation is brought before this House at this time. The reason seems to be either the Government thinks that it is such a class of measure in which if public is given opportunity to think and full chance they will not be able to carry through with these reforms, or otherwise they have to justify that some very great calamity is happening or is going to fall upon majority of the people and in order to save them from that calamity, this legislation is essential. I do not think there is any of the reasons to justify bringing this sort of legislation before this House at this time.

I have also my apprehensions with regard to certain other matters. Firstly, whether this House is competent at the moment to discuss this sort of social reform. This House was elected eight or nine years ago. Out of the total number of Hindu Members who represent the country, I do not think that even 20 per cent. Members are present at the moment in this House. The Congress Party—the biggest party—which comprises of many Hindus members, has not been attending the Assembly for a long time and I do not think that all the Members belonging to that Party are out of jail. Many of those who are attending the Assembly are not present in the House. In view of those circumstances I do not think it is advisable that this Bill should be pressed through at this moment. As I have already said, I have full sympathy with the objects of the Bill but all the same I do feel that it is not a matter which should be treated so lightly as I find it is being treated in certain quarters.

My second apprehension is that it is a matter which requires great study of technical aspects of sociological and sexological matters. I do not think that enough attempt has been made to study this subject from that angle.

The measure, as it is before us, raises several issues. I have no hesitation in admitting that I am not an expert in either of these 'logies' which I have just mentioned, but all the same I think there are certain important principles and points which are involved. It is not an easy issue as it might seem just on going through the Bill. What will be the benefits of this legislation and what are those points which are liable to be harmful and which will create difficulties, is what I shall try to point out. The benefit, of course, will be that monogamy will be stopped by law, but it is liable to create many difficulties and may introduce many complications which we are not in a position to foresee just at the moment. As has been pointed out by some of the speakers before, there can be genuine cases where it is found essential that the person should have second marriage. How do you provide for that in this Bill against that possibility, and if you don't provide against that, then the result is liable to

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be debauchery which nobody would like to encourage in the society. It is a matter which is connected with the natural urge of the people. Therefore, any legislation which goes against the natural urge of the people should be well conceived and should be given full consideration.

Now, let us examine this question. What is the occasion when people are compelled to think of more than one marriage. If the marriages are based on mutual love and affection one cannot even think of a second marriage, but as customs prevail in our community marriages are not the result of mutual consent of boys and girls but they are arranged by their parents. And this is one of the points which we cannot easily ignore. What is generally the principle on which most of the marriages are fixed. I think it is not a secret—everybody knows it—that in many cases marriages are fixed on the basis of the money which the boy's parents hope to get from the girl's parents. So long as such customs prevail in the society, if you try to legislate on one part of the custom leaving other parts as they are, I have very serious apprehensions that it may not result in creating many more complications instead of solving the problem.

Then, Sir, is there any urgent necessity for this legislation? I belong to the Hindu community and, so far as I can see, I do not think that the moral public opinion has served in any other direction better than in respect of this part of Hindu social customs. In a huge country, with a population of 30 crores of Hindus, if 5, 10, 100 or 200 men are found who married more than one wife, that cannot be taken as a point requiring urgent legislation. So far as Hindu social customs are concerned, it is being demonstrated every day that they are going to prove the best customs which human ingenuity has ever evolved. Sir, as a matter of fact I do not belong to the orthodox school of thought; I aspire for reforms which are really necessary, but at the same time I do not like to carry out any reforms without giving the utmost consideration to the problems involved in that. It is only from this point of view that I am raising these points. Whenever you legislate on matters which deal with the natural urge of the people, what is the result? Since the custom of *purdah* has come in, an unnatural habit has developed in the society which is eating up the very nerve of the society in many parts of the world where this system prevails. I do not want to describe it openly but I think it is within the knowledge of the people, and they can see the urge for this sort of unnatural habits. It is not difficult to find out reason that dissociation of girls with boys is responsible for this unnatural habit. My point of view is this: when we try to legislate on such matters, we should not rush through; we should give as much thought, time and consideration as possible and we should give as many opportunities to the people to consider over it as possible. I personally think that at this time when peoples' minds are fully occupied by other things, which are more and of immediate importance, I mean the war, and the suffering of the people resulting out of that, the economic hardships resulting out of control and disorganisation of economic life and the Defence of India Rules; 4 P.M. when everybody has got many problems to fight and face; you cannot expect the people to think over these matters which require peaceful and long thinking. Therefore, Sir, I think that this point should be kept in mind by the Honourable Member when piloting this measure in Select Committee.

I like to point out that, after thousands of years of freedom of this custom in our society, the fact is that even today the moral opinion in the community does not permit polygamy as is also demonstrated by the meagre cases found. When the old system has worked so well in the past, why cannot it be allowed to continue at present also. It would have been better if statistics had been furnished of the total number of such cases. Where polygamy has taken place among the Hindu community if the statistics show that really the cases are alarming, I will be the first person to go through it as quickly as possible, otherwise I think the matter should not be pressed at this moment.

If it is suggested that it is a necessity just to make society decent, then why should the effect of that legislation be confined only to Hindus, because

India is not composed of one community. It is composed of so many other communities and in other communities it has got a worse effect than upon the Hindus. Therefore, Sir, I feel that this is not the proper and opportune time for pushing on this measure. But in case our Honourable lady Members of the House and our other Hindu friends of the House think that the time is ripe for pushing on this reform, and it must be pressed, then I would like that the Select Committee should be so composed that it should be selected only by the Hindu Members of the House. I may clarify the position. After all, if this measure is going to affect only one community, then it is the right of the members of that community that they should sit down and study the subject and decide the measures necessary. If the members of the other communities want to sympathise with us and guide us, I have no objection to their coming, but so far as the question of voting in the Select Committee is concerned, that should be confined to the Hindu Members.

Mr. Abdul Qaiyum (North-West Frontier Province: General): Won't you permit that right to those who represent general constituencies?

Mr. R. E. Gupta: I do not mind. Besides the nominated non-official Members should be permitted to vote as they like. My object is not to oppose the measure nor am I competent to say 'yes' or 'no' with authority. But people should have a full opportunity to decide the issue at their free will on the merit of the issue.

Sir, an example has been given that because murders and thefts are sins of society and legal steps are taken to prevent them, so also is the case with this. But I would point out that this matter is not in the same category. Now, if you adopt this system of monogamy then the natural consequence is that you must accept the principle of divorce. I do not see how the principle of monogamy can well satisfy without right of divorce. In such a case I would point out to my lady friends sitting in the House that they should also give due consideration to the consequences of this fact. I have seen with my own eyes in almost every part of the world in which I have been that those societies where divorce is permitted, there the family life is not at all happy. My reading of the position is that where divorce system is prevalent especially in western society, family life is no more than a matter of convenience. As a matter of fact there is absolutely no family life in the sense as we are used to know in our community or country. I think, Sir, it is a matter in which other communities have already started realising that the lead which the Hindu social system had given was much more lasting, happy and feasible and well conceived and they are by and by thinking to adopt our customs. I wish my Honourable lady friends should note this fact. Anyway if that is not going to be the effect of this Bill then I have no objection to it, but if it is, then I have to oppose it strongly and I would vote against it when the proper time came. I would warn Honourable Members that this is a very serious point. The matter should not be treated lightly and it should be considered from the point of its widest implications and the deepest effect which it is liable to bring upon the whole social custom existing in our community. I do not deny that there are many defects which have cropped up in our society but it does not mean that to eradicate one evil we should include three or four other evils. This is the one evil which does not at present prevail in our society and if we encourage its creation, other evils will spring up against which it will be difficult afterwards to fight and our society which stood all onslaughts so admirably hitherto may go to pieces.

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Sir, ordinarily I would not have intervened in this debate which relates only to the question whether the Hindu Marriage Bill should be referred to a joint committee or whether as proposed in the amendment, it should be circulated. As no other question is at present before the House and the merits of the Bill are under consideration only as an incidental matter, I would have abstained from taking any part whatsoever in the debate, but to-day I have heard the third voice on the floor of this House saying that this Bill should be considered by a Select Committee or Joint Committee consisting of only Hindus. Mr.

[Syed Ghulam Bhik Nairang.]

Bajoria was the first man to say so, Mr. Lalchand Navalrai was the second, and Mr. Ram Ratan Gupta was the third.

Mr. Lalchand Navalrai: You have not yet heard me.

Syed Ghulam Bhik Nairang: I have heard you in connection with another matter. You have always been irrelevant. (Interruption.) When we were considering the personnel of the Standing Haj Committee, my Honourable friend, Mr. Lalchand Navalrai, with his usual "communal" turn of mind, stood up and said that the practice that there are only Muslim Members on the Standing Haj Committee is wrong and there ought to be Hindus as well, or there ought to be no Muslim Members on Committees concerning the Hindus, and all that. Of course, I shall confine myself only to this matter whether to the Joint Committee which has been proposed there ought to be nominated or appointed any Muslim Member or not. This point raises three important questions,—firstly, whether on any occasion Muslim Members when appointed to a Select Committee or Joint Committee to consider legislation affecting Hindus only, have in any way abused their position so as to offend their Hindu colleagues in this House. That is one important question. One example in this series of Bills was Hindu Code Part I, which was sent to a Joint Committee consisting of 9 members of this House and 9 members of the Council of State. One Muslim member of this House and one Muslim member of the Council of State were on that Joint Committee. It was a matter of accident that the then Law Member, our present Leader of the House, was the sponsor of the Bill as Law Member, and he was the elected Chairman of the Joint Committee, so he was the third Muslim member in the entire Joint Committee. I wonder if there is a suggestion that in that Committee Muslim Members in any way unduly interfered with the course of proceedings of the Joint Committee so as to in any way prejudice the Hindu cause? If that is the suggestion,—I hope it is not, but if that is the suggestion—I submit that we repudiate it and resent it. It is not permissible to give here any details of what passed in a Joint Committee or a Select Committee, but this much I can say that in that particular Joint Committee we two Muslim members of that Committee, the Honourable Mr. Husain Imam and myself, took care to observe two principles. Firstly, unless we were interrogated particularly on a point, we never expressed any opinion. Secondly, we took care to see that any expression of opinion on our part did not in any way upset the balance of opinion on either side, so that our expression of opinion should be immaterial to the result of expressions of opinion on any given point.

Pandit Lakshmi Kanta Maitra (Presidency Division: Non-Muhammadan Rural): May I interrupt the Honourable Member? Did you vote at all in those meetings?

Syed Ghulam Bhik Nairang: I am using the phrase, "expression of opinion". I think you can trust me to use the appropriate words because I am not so ignorant of the English language. Only on one particular point at the end there was voting, that is to say, whether the Bill had been so altered by the Joint Committee as to require re-circulation. On that matter we expressed our opinion without caring whether it would upset the balance of voting or not. I submit, Sir, that if the frequency of these suggestions by Hindu Members of this House that there should be no Muslim members on this Committee and that there should be only Hindu members,—if that is in any way due to any belief on their part that the presence of Muslim members on that Joint Committee had been in any way prejudicial to the Hindu cause.—I would ask them to disabuse their minds of that notion, because what actually happened, as far as I am free to tell, was what I have stated. That is one point of view from which I object to the suggestion that there should be only Hindu members. The second important question is the right, the inherent and undoubted right of Honourable Members of this House to serve on any Committee of this House. Why should there be a rigid, hard and fast rule as to

the exclusion of members of this faith or community or that faith or community, from any particular Committee which this House is called upon to appoint? We are not prepared to forego that right, and we must assert it.

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

Of course, we have never gone down on our knees to pray that Muslims should be appointed to this committee or that committee, but when objection is taken and it is said that Muslims should not be appointed, we must protest and we must assert our right. We have a right to be appointed to such a committee provided, of course, the House thinks it proper to appoint us. We have a right and we are not going to forego that right. Thirdly, there is a matter which I think cannot be lost sight of. We have had experience in the matter of several Bills in this House as to the result of the composition of Select Committees in a particular way ignoring certain points of view or interests. I will take the example of only two Bills. They happen to be Bills relating to marriage. One was the Arya Validating Marriage Bill. That Bill was sponsored by Dr. Khare and when the Select Committee was appointed for that Bill as many as 11 members were appointed to it and there was not a single Muslim on that Committee. Well, when the Bill emerged from the Select Committee, it had assumed such a shape that the debates over this Bill went on for three consecutive non-official days at Simla. The Bill was considered on the 22nd September, 1936, 29th September, 1936 and 9th October, 1936, and yet discussions were not finished. Then came the Budget Session of 1937 and on the 20th March, 1937, the Bill was passed. What was the reason for such a protracted consideration of that Bill? There were two amendments; one was by Mr. Bajoria. From his peculiar *Sanatanist* point of view, he wanted the term 'Arya Samajist' to be defined. Well, that took a long time. Another was an amendment by our late lamented friend, Maulvi Sir Muhammad Yakub. He objected to the wording of a provision which had been inserted by the Select Committee as repugnant to the Muslims. Over this point discussions went on and I have already stated how long the House took over that Bill on account of these two points. I was one of those who supported the amendment moved by Maulvi Sir Muhammad Yakub and with your permission I will read one small extract from my speech on that occasion: I said:

"I happened to attend this Session of the Assembly very late in the day indeed. I was told the other day by a friend before I had come to Simla, that I was very urgently needed at Simla because there was the Arya Marriage Bill under discussion. I said: "How does that concern my presence at Simla? It is a matter which concerns the Arya Samajists and the Hindus generally. Let them settle. My presence is not needed either to oppose the Bill or to support the Bill". That was our point of view, but then I was told at once that I was ignorant of what had happened in the Select Committee and that the form now given by the Select Committee to the Bill was such that the Mussalmans could not take up the position that they were not affected."

If the debates which took place on that Bill are studied, it will be found that at the end Mr. Kazmi brought in a compromise amendment to which Sir Muhammad Yakub after consulting me and Mr. Kazmi agreed and it was in this way that the passage of the Bill became possible.

Now, Sir, that was one marriage Bill and I have told you how the Bill originally looking very innocuous and appearing as if it concerned only the Hindu community became such when it emerged from the Select Committee that the Mussalmans had to move amendments and prolonged discussions had to take place and eventually a compromise had to be arrived at. Another marriage Bill was the Dissolution of Muslim Marriages Bill. Mr. Kazmi was the sponsor of that Bill and the Select Committee to which that Bill was referred consisted among others of Bhai Parmanand, Sardar Mangal Singh, Dr. Deshmukh and Pandit Sri Krishna Datta Paliwal. In addition, there was, of course, the Law Member who in his official capacity was a member of the Select Committee and was the Chairman. Mr. Kazmi proposed the Committee in which these four Hindu members were included and the Report of the

[Syed Ghulam Bhik Nairang.]

Select Committee was signed by Bhai Parmanand and Sardar Mangal Singh. The other two did not apparently attend and did not sign. Thus, the Muslims took care to see that the Hindus are represented in the Select Committee so that there may be nothing in it later on which may give trouble. In spite of that, the Bill was opposed by a good many Hindu members and quite needlessly. I need not go into all the details of this matter because it may look like raking up old quarrels. So, I submit from all these points of view that the presence of Muslim members on a Select Committee or a Joint Committee to consider a Bill like the one which is before the House is essential and the objection proceeds from a very narrow minded spirit indeed. This is all I have to say.

Sri K. B. Jinaraja Hegde (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I feel that this Bill to codify Hindu Law relating to marriage has not come a day too soon. A point was made out that there was no demand for a measure of this kind either on the part of this House or the Upper House and that the Bill was supported by people who did not represent the Hindu community. I do not know how far this argument could be pressed home. For the last several years, many Bills and Resolutions were moved in this House with a view to codify the Hindu law in its various aspects. I myself had the honour of moving a Resolution in 1939 Budget Session to codify the law relating to marriage and the rights of women to property. Subsequent to that, a committee was appointed and it was later thought that the committee should report on the advisability of codifying the entire Hindu law. I will not go into the details of what happened in the past but I feel that the time has come when we ought to legislate for the social requirements of the large Hindu community.

Sir, without wasting any more time, I would like to go to the Bill itself. I find that under section 2(a), caste is defined as *Varna*, that is, *Varna* is synonymous with caste but I am afraid this definition will not hold good, since it is provided that it will not include sub-caste. What I find is that this Bill is proposed to apply to Jains, Sikhs and probably to Buddhists who follow Hindu law. The castes must be defined or eliminated altogether because it is a fact that Jains in Northern India are taken to be *Vaishyas* but so far as the Jains in Southern India are concerned, we have Jain Brahmins and Jain *Kshatriyas* and there are no Jain *Vaishyas* or *Sudras*. Suppose a marriage takes place between Jains of Northern India and Southern India. It will be doubtful whether such a marriage would be held valid in the absence of a proper definition of caste. There is the question of Sikhs also. Sikhs do not observe *Varna* system. And Buddhists also do not observe *Varna* system. Curiously enough, I find from the report of the Calcutta High Court (10 Cal. page 689) that *Kayasthas* were classed in Bengal as *Sudras* whereas they claim to belong to *Kshatriyas Varna*. This was the observation of the High Court:

"The plaintiffs appealed to the Subordinate Judge who reversed the Munsiff's decision, and held the adoption void, on the ground that Chandan being a *Kayastha* belonged to one of the superior classes. The defendant Bissessur appealed to the High Court, and at the hearing, the Court directed a further inquiry as to whether the plaintiffs' family belonged to either of the three higher castes and after a formal order of remand transferred the appeal to the file of the High Court."

I find that this case has been followed in a later case of the same High Court in XX Calcutta Weekly Notes, page 901. On page 905 I find this observation:

"Bengali *Kayasthas* have been uniformly treated as *Sudras* in our Courts."

But so far as the United Provinces are concerned, I find they are treated by the Allahabad High Court as *Kshatriyas*. Therefore, the difficulty will always arise when a marriage is settled between a United Provinces' *Kayastha* and a Bengali *Kayastha*. As I pointed out, the Buddhists and the Jains have no caste system. Therefore, my suggestion is that this sub-clause (a) of section 2 must be deleted, otherwise it will give rise to lot of difficulty with regard to the validity of the marriage.

Mr. President (The Honourable Sir Abdur Rahim): At this stage it is not necessary to deal with the clauses.

Sri K. B. Jinaraja Hegde: Then, the other suggestion which I would like to make is under section 2(d), where marriage is prohibited between uncle and niece and the aunt and nephew. In Southern India this is the custom that prevails. Therefore, the retention of this clause is objectionable to all those persons who follow this custom; particularly, when the several requirements of section 2 are not obliterated by sections 6 and 7. The obligations under section 2 will stand and the marriage will be invalidated and the parties will undergo all those consequences which the framers of the Bill have tried to avoid by providing section 7.

Now, the other aspect of the Bill to which I would like to draw the attention of the Law Member is sub-clause (d) of section 4, the question of marriage between agnate *sapindas* and cognate *sapindas*. I have gone through the several opinions received in this connection and I find the majority is of the opinion that marriages between agnate *sapindas* should be restricted and marriages between cognate *sapindas* should not be prohibited. Since the Bill has gone to a large extent to meet the requirements of the society with a view to have a common law throughout the country for the Hindus, I think the prohibition against marriage between cognate *sapindas* should be abolished. I would further suggest to that very section an additional sub-clause (f) and that is the provision with regard to the difference of age between the bride and the bridegroom. I find that no age has been fixed under the Bill. It would be in keeping with the present day theory and also for the betterment of the society if there is a provision which should make a marriage invalid if the difference between the bride and the bridegroom is less than 4 years and more than 20 years. This will put an end to old people marrying young girls and producing more widows in this country. I think it is high time that the Hindu society should devote its mind to this aspect of the matter and insist on such a provision.

Coming to the Chapter of civil marriage, I find the age fixed for the bridegroom is 18 and for the bride it is 14 and the presence in those circumstances of their guardians is made compulsory. After all, civil marriage is a modern invention and I want that the parties to the civil marriage should not require the presence of their guardians and they should be able to achieve it by reason of their respective ages. The age of the bridegroom should be 21 and that of the bride 18 and the presence of the guardian should then be unnecessary.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member should not go into these matters at this stage.

Sri K. B. Jinaraja Hegde: I feel that this Bill has not come a day too soon and the Congress has pledged itself for all these social reforms and my Honourable friend, Mr. Ram Ratan Gupta, was wrong in saying that the Congress has not made up its mind. I feel it is our duty to lend all that support we could give at the present juncture and to see that this Bill is passed into an Act and placed on the Statute Book as soon as possible. Sir, I support the motion.

Honourable Members: The question be now put.

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

"That the question be now put."

The motion was adopted.

The Honourable Sir Asoka Roy (Law Member): Sir, I do not propose to take up the time of the House for more than a few minutes, particularly as I believe that, on the whole, the House is not opposed to my motion. I should like, however, briefly to refer to some of the points made in the speeches of the Honourable Members. I shall, first of all, deal with the observations made by

[Sir Asoka Roy.]

my Honourable friend, Mr. Bajoria, whom I miss here today. I had fully anticipated that as a stalwart champion of Hindu orthodoxy, he would make a speech opposing my motion, but I have a feeling that he was not really serious in his opposition. Honourable Members will remember that in making my motion I had stated in unmistakable language that it was the intention of Government to move for the circulation of the Bill after it had emerged from the Joint Committee, so that the Hindu community may have a further opportunity of studying the Bill and the changes, if any, made by the Committee and thereafter of expressing its opinion. There is very little difference between myself and my Honourable friend, Mr. Bajoria. Mr. Bajoria asked that the Bill be circulated for the purpose of eliciting opinion at this stage. I consider it would be better from all points of view for the community to express its views on the Bill after the provisions in the Bill have been carefully scrutinised and alterations made by the Members of the Legislature in the Joint Committee. I am confident that on reflection my Honourable friend, Mr. Bajoria, will agree that the course proposed by me is the better course and that it certainly can do no harm.

I confess I have been agreeably surprised at the attitude taken up by my Honourable friend, Mr. Bajoria, with regard to the principle of monogamy. For some reason which I cannot explain to Honourable Members, I had expected that my Honourable friend would oppose monogamy and I would remind the House that he himself in his speech said that the House would be agreeably surprised to learn that he supported the abolition of polygamy and insisted on monogamous marriages. He told us that polygamy was very rare among Hindus, if for nothing else for the cost it involved. His observations in the House have given Honourable Members a vivid picture of his running away from a white elephant. I do not know if Mr. Bajoria was ever, in fact, chased by a white elephant, but whether his support to the principle of monogamy was due to his dread of elephants or to his faith in the opinion of Pandits, I am grateful to him for his support in this matter.

Sir, I think the speech which Mr. Bajoria made is the strongest argument for the Bill going to the Joint Committee at this stage. The points which he raised are really points which should be discussed in the Joint Committee. The Bill seeks to codify the Hindu law relating to marriage. Mr. Bajoria has complained that the provisions regarding civil marriage should not find place in the Bill. Well, Sir, we cannot shut our eyes to the fact that civil marriage is not unknown among Hindus and there seems to be no good reason to my mind why Hindus should be driven out of the fold or be subjected to disabilities simply because they have contracted a civil marriage. But, Sir, the question as to whether the provisions regarding civil marriage should be deleted is again a matter which could be gone into in the Joint Committee.

I do not propose to discuss Mr. Bajoria's criticisms of clauses 4 and 7 of the Bill or his other criticisms of the provisions of the Bill at this stage. Those are matters which could be better discussed in the Joint Committee. I might however point out that some of the provisions of the Bill which he has criticised vigorously do no more than set out the existing law on the subject. If Mr. Bajoria finds fault with the law, as it stands, he should make an attempt in the Joint Committee to alter the law by amending the relevant clauses. I hope, Sir, he would be willing to serve on the Joint Committee.

I need hardly refer to the speeches made in support of my motion. I should like to congratulate my Honourable friend, Mrs. Ray, on her spirited defence of the Educated Woman and on the excellent speech she made in reply to Mr. Bajoria's arguments. As regards the point made by my Honourable friend, Sardar Sant Singh, whom again I miss here today, I can assure him that I shall see that the point raised by him is considered by the Joint Committee. My Honourable friend, Mr. Ananga Mohan Dam, seems to be a supporter of polygamy. He has attributed the fall of the Roman Empire to the introduction of

monogamy by the Romans. I do not know if Mr. Ananga Mohan Dam apprehends that some terrible calamity is in store for Hindus if monogamy is introduced among them. I hope, Sir, the Hindus will survive whatever calamity might befall them on that account. I feel sure, however, that if my Honourable friend, Mr. Ananga Mohan Dam, were to sit down with my Honourable friend, Mr. Bajoria, and have a quiet talk with him, my Honourable friend, Mr. Bajoria, would be able to convince Mr. Dam in no time that it would be entirely wrong to support polygamy. I do not think, however, that my Honourable friend, Mr. Dam, will press his objection to the Bill being referred to the Joint Committee. I believe, he would gladly serve on the Joint Committee and I shall welcome his presence.

As regards the other speakers whom we have heard today, I have only a few observations to make. Before I part from my Honourable friend, Mr. Dam, I wish to assure him that I entirely agree with him that it is the duty of the State to see that no injustice is done to any community. I hope, Sir, no injustice will be done to the Hindu community. I can assure him further that every effort will be made to see that no question of injustice arises when this House codifies the Hindu law relating to marriage. My Honourable friend went on to criticise certain parts of the Explanatory Note submitted by the draftsmen. Sir, I do not think it would serve any useful purpose to discuss or criticise that Note. The Joint Committee will carefully scrutinise the clauses of the Bill and they will, if necessary, amend or alter the Bill.

My Honourable friend, Sir Ratanji Dalal, whom Honourable Members must have been pleased to hear, stood up for the equality of both sexes and asked that sex inequality should be removed. I have no quarrel with him and I am sure the House was glad to hear him, and particularly his soliloquy. I thank him for his support. I come now to my Honourable friend, Mrs. Subbarayan. I am not going to be dragged into a discussion of what she has called the contradictory actions of Government in regard to certain matters which she mentioned and which, incidentally, I might point out, have no bearing on my present motion. She referred to certain Bills which she introduced in this House some years ago. Well, Sir, she could tell us what her reasons were for not proceeding with her Bills. But the provisions of her Bills could certainly be usefully considered by the Joint Committee. The House will be grateful to Mrs. Subbarayan for her strong advocacy of monogamy and for an interesting speech. She referred to the desire of Mr. Bajoria to see that Hindu wives go to heaven. Mrs. Subbarayan would like Hindu husbands as well as wives to go to heaven and I hope they will do so when the time comes for them to depart from this world.

Then I come to my Honourable friend, Bhai Parma Nand. I confess I was rather surprised when my Honourable friend got up to speak on this motion. I had a feeling that my Honourable friend would not intervene in this debate but would allow this motion of mine to go through without any species of opposition from him. I must say that I am not quite sure if he really opposed my motion. He had something to say about the lady Members of the House and the reforming zeal of some educated women and contended there was no demand for reform but my Honourable friend, Bhai Parma Nand, cannot seriously object to the Bill going to the Joint Committee after the assurance he has received from me that the Bill will be circulated when it emerges from the Joint Committee. We shall then have ample opportunity of verifying whether Hindus would like the Hindu law of marriage to be codified or not.

My Honourable friend, Mr. Ram Ratan Gupta, told us that he was in favour of this motion but somehow thought that the time was not suitable for what he called complicated and controversial legislation, and he specially emphasised the fact that the Congress Party were not in the House today. He seemed to think that Government were rushing through the Bill; I do not know what made him think that. I am inclined to believe that my Honourable friend, Mr. Gupta, was not present here when I made my motion.

Mr. B. E. Gupta: I was not.

The Honourable Sir Asoka Roy: If he had been here he would have recalled that I told the House: "Government have no intention of taking any precipitate action in so important a matter touching the Hindu community". I do not know what led him to think that Government were treating the Bill lightly or that Government were going to take precipitate action.

Mr. B. E. Gupta: Then why proceed with it?

The Honourable Sir Asoka Roy: He told us that he was a reformer, but did not wish to rush through reforms. I can assure my Honourable friend that ample time and thought will be given to this important matter by Government and by Members of the House.

Sir, my Honourable friend, Syed Ghulam Bhik Nairang, had some observations to make regarding the personnel of the committee. I am sorry that some time of the House was taken up by a controversy as to whether a Muslim should be a member of the committee or not. I hope the controversy will resolve itself by the time I am called upon to mention the names of the members of the committee after my motion has been accepted by the other House. My Honourable friend, Mr. Ghulam Bhik Nairang, had no objection to the motion itself and at the moment I shall concern myself only with the question as to whether the motion should be accepted by this House or not.

Lastly I come to my Honourable friend, Mr. Hegde. He discussed various matters of detail in the provisions of the Bill. I do not consider it is necessary to go into those matters this afternoon. Those are matters which can best be discussed by the committee.

Sir, in conclusion I would appeal to the House to assist Government in the task of codifying the Hindu law. If we succeed in codifying the Hindu law I think we would be rendering very valuable service to the Hindu community. That is all I desire to say. I hope the House will support my motion and reject Mr. Bajoria's amendment.

Mr. President (The Honourable Sir Abdur Rahim): I will put the amendment to the vote first. The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st October, 1944."

The motion was negatived.

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

"That this Assembly do recommend to the Council of State that the Bill to codify the Hindu law relating to marriage be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of 18 members."

The motion was adopted.

THE PROTECTIVE DUTIES CONTINUATION BILL.

The Honourable Sir M. Azizul Huque (Commerce Member): Sir, I move:

"That the Bill to extend the date up to which certain duties characterised as protective in the First Schedule to the Indian Tariff Act, 1934, shall have effect, be taken into consideration."

The Statement of Objects and Reasons makes it quite clear why we cannot enter into a tariff discussion at this stage and I merely move this motion.

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

"That the Bill to extend the date up to which certain duties characterised as protective in the First Schedule to the Indian Tariff Act, 1934, shall have effect, be taken into consideration."

Maulvi Muhammad Abdul Ghani (Tirhut Division: Muhammadan): Sir, every two years we find this permission asked for from this House for this continuance and I do not know how long it will continue.

Mr. President (The Honourable Sir Abdur Rahim): Is the Honourable Member going to move his amendment?

Maulvi Muhammad Abdul Ghani: No, Sir, but I will speak on the Bill. Two years ago similar permission was asked for and we are now asked to give the same permission. Sir, by this Bill there are many interests in the country which will suffer; it will do much harm to many interests in the country. Among those many interests, one is that of the sugar industry. I do not see any reason why this industry requires any protection at all because this commodity is not imported from outside and if the Act is amended I think it will do much good to the tax-payers of the country. I do not think that it will be doing justice to the tax-payers to pass this kind of legislation. I suggest that the Government should take steps to amend the Indian Tariff Act according to the rates of various industries prevailing in the country during these days. By this legislation the old rates are to continue and I hope that the House will take this point into consideration and will not adopt this measure.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 4th April, 1944.