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**LEGISLATIVE ASSEMBLY DEBATES**  
**Official Report**

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**(28th February to 13th March, 1945)**

**TWENTY-SECOND SESSION**  
**OF THE**  
**FIFTH LEGISLATIVE ASSEMBLY,**  
**1945**



# LEGISLATIVE ASSEMBLY

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*Deputy President :*

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**Mr. GOVIND V. DESHMUKH, M.L.A.**

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

**Sardar SANT SINGH, M.L.A.**

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# LEGISLATIVE ASSEMBLY

Thursday, 1st March, 1945.

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

## MEMBER SWORN:

Mr. Geoffrey Stephen Bozman, C.I.E., I.C.S., M.L.A. (Secretary, Department of Information and Broadcasting).

## STARRED QUESTIONS AND ANSWERS

### (a) ORAL ANSWERS

#### ENEMY PRISONERS OF WAR IN INDIA

571. \*Mr. T. S. Avinashilingam Chettiar: Will the War Secretary please state:

(a) how many enemy prisoners of war are held in India, how many of them are Italians, Germans and Japanese;

(b) the annual cost incurred on their maintenance and who bears them; and

(c) in view of the food situation in the country and in view of the fact that Italy has been reconquered, whether he will consider the advisability of repatriating at least the Italians to Italy?

Mr. C. M. Trivedi: (a) 29,499 of whom only 6 are Germans. I regret that in the interests of security I am unable to give separate figures in respect of Japanese.

(b) Expenditure on the maintenance of enemy Prisoners of War in India is borne by His Majesty's Government. Expenditure in 1940-41 was Rs. 70 lakhs, in 1941-42 Rs. 864 lakhs, in 1942-43 Rs. 578 lakhs and in 1943-44 Rs. 723 lakhs.

(c) The present policy is to repatriate to Italy only those whose repatriation is recommended on medical grounds, or is specifically asked for by the Italian Government.

Mr. T. S. Avinashilingam Chettiar: How many such have been repatriated till now?

Mr. C. M. Trivedi: About 38,000 Italian prisoners have been transferred from India so far.

Mr. T. S. Avinashilingam Chettiar: What is the total number of Italian prisoners here?

Mr. C. M. Trivedi: I have said that in the interests of security I cannot give separate figures in respect of Japanese prisoners. If I were to give the numbers of Italian prisoners—and I have already given the number of German prisoners—the Honourable Member could get the number of Japanese prisoners. I am sorry I cannot therefore give the number.

Mr. Abdul Qaiyum: If the interests of security did not prevent the Honourable Member giving the number of German prisoners in India, I want to know the reason why the number of Japanese prisoners cannot be given.

Mr. C. M. Trivedi: The reason is this: it would not be in the interests of security to give the security grounds on which information in respect of Japanese prisoners cannot be given.

Mr. Govind V. Deshmukh: May I know whether the Italians who are here are prisoners of war or are they employed in different capacities? Is the Honourable Member quite sure that they are treated as prisoners?

Mr. C. M. Trivedi: They are treated as prisoners, but some of them—a good number of them—are at present carrying on very valuable war work in skilled and semi-skilled capacities.

**Mr. T. S. Avinashilingam Chettiar:** In view of the fact that the food situation in this country is not very good, will he consider the advisability of transferring these persons to some other countries who can bear it?

**Mr. C. M. Trivedi:** Every opportunity is taken to transfer Italian prisoners of war whenever possible; and I have said that in pursuance of that policy we have transferred as many as 40,000 prisoners.

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

#### INDIAN PRISONERS OF WAR

**572. \*Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Defence Member please state:

(a) the total number of Indian prisoners of war (i) in the hands of Germans; and (ii) in the hands of the Japanese; and

(b) how many were in Italy, and whether they have been released?

**Mr. C. M. Trivedi:** (a) (i) 9,944.

(ii) 42,374 confirmed as POW, 22,036 believed to be POWs.

(b) 5,110, on 8th September, 1943, of whom 773 have been released.

**Mr. T. S. Avinashilingam Chettiar:** What has happened to the rest? Were they not all kept in Italy?

**Mr. C. M. Trivedi:** What happened was this: when Italy was invaded by the Allied forces, the enemy transferred most of our prisoners into other portions of the territory occupied by them and later retransferred them to Germany. So, those who are not released are prisoners of war in Germany.

**Mr. T. S. Avinashilingam Chettiar:** Of the number shown as released, did they escape and came back or were they freed by the Allied armies?

**Mr. C. M. Trivedi:** Some of them did scape.

#### EXTERNAL PUBLICITY WORK

**573. \*Mr. T. S. Avinashilingam Chettiar:** Will the Honourable Member for Information and Broadcasting please state:

(a) the external publicity work that the Government of India is doing, on what matter and in which countries and through which agencies;

(b) what is the Publicity Office, Foreign, referred to as subject 9, for which the Honourable Member is shown to be responsible in Circular No. XXXIII, dated the 28th August, 1944;

(c) where this Publicity Office exists, and what is the work it is doing; and

(d) the annual financial expenditure on these two items?

**Mr. G. S. Boxman:** (a) The external publicity work of the Government of India is handled as follows:

(i) News Services, Photographs, Photogravures, Pamphlets; and the periodical *Indian Information*—by the Bureau of Public Information;

(ii) Magazine publicity by the Publications Division;

(iii) Radio broadcasts by All-India Radio;

(iv) Documentary films by Information Films of India, and News Films by Indian News Parade.

The countries covered include China, Russia, Afghanistan, Nepal, Persia, Iraq, Palestine, Egypt, Syria, Turkey, South Africa, East Africa, Australia, Fiji Islands, United States of America and Great Britain.

(b) It is correct that the Honourable Member for Information and Broadcasting is responsible for the office formerly known as the Publicity Office (Foreign) and now known as the "Publications Division".

(c) The Publications Division is located at 15, Rajpur Road, Delhi, and is responsible for the magazine publicity of the Government of India.

(d) It is impossible entirely to separate expenditure on external publicity from that on internal publicity in the budgets of the various attached offices of this Department. As far as the Publications Division is concerned, its total revised budget for the current year is Rs. 11,35,000 against which recoveries from sale of magazines of rather over Rs. 4,25,000 are anticipated.

**Mr. T. S. Avinashilingam Chettiar:** What are the sort of books and magazines that are being published by this Department?

**Mr. G. S. Bozman:** I think that has been answered already—a list of magazines was tabled in reply to a previous question.

**Mr. N. M. Joshi:** May I ask whether copies of these magazines and other publications will be placed on the reading tables in the Library in the Assembly?

**Mr. G. S. Bozman:** I am prepared to consider that.

**Mr. T. T. Krishnamachari:** In regard to the answer to part (a), may I ask what is the basis on which this Department decides upon publicity work in these various countries? What are the grounds on which they think it is expedient to carry on publicity work in the various countries he has enumerated?

**Mr. G. S. Bozman:** The reasons are that in a number of countries there is insufficient information about India and they are countries in which India may very well take profitable interest.

**Mr. Abdul Qaiyum:** Is the Government of India carrying on this propaganda of their own free will or under directions from Whitehall?

**Mr. G. S. Bozman:** The Government of India carry on propaganda at their own instance.

**Mr. Abdul Qaiyum:** May I know if it is a fact that no suggestion was made from Whitehall that such propaganda should be carried on abroad?

**Mr. G. S. Bozman:** No such suggestion is necessary.

**Mr. Govind V. Deshmukh:** May I know if this publicity work which is being carried on in those countries because there is inadequate information there, also includes refutation of such propaganda and such literature as is against Indians and published in those countries?

**Mr. G. S. Bozman:** It is not possible for us to read everything that is put out in those countries.

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

**Mr. T. S. Avinashilingam Chettiar:** I have not been given a chance at all, Sir.

**Mr. President** (The Honourable Sir Abdur Rahim): The matter has been fully discussed.

**Mr. T. S. Avinashilingam Chettiar:** It was not discussed, Sir.

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

#### ESTABLISHING A CANTONMENT IN COIMBATORE

574. **\*Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Defence Member please state:

(a) whether there is an idea of establishing a cantonment in Coimbatore; and

(b) if so, permanently or temporarily, and what the approximate number of troops that is going to be stationed there is?

**Mr. C. M. Trivedi:** (a) No such proposal has been submitted to the Government of India.

(b) Does not arise.

#### DETENTION OF IBAD KHAN OF VILLAGE PIRPAI

575. **\*Mr. Abdul Qaiyum:** Will the Honourable the Home Member please state:

(a) the date of arrest of Ibad Khan of village Pirpai, North-West Frontier Province;

(b) the reason for his arrest;

(c) the different jail or jails where he has since been kept and the duration of his detention in each jail;

(d) his present place of detention;

(e) whether he would consider the advisability of Ibad Khan's transfer to a jail in the North-West Frontier Province; if not, why not;

(f) the allowance which is paid at present to his dependents; and

(g) whether the same is adequate in view of the rise in prices?

**The Honourable Sir Francis Mudie:** (a) 1st October, 1942.

(b) He is being detained to prevent him from acting in a manner prejudicial to the efficient prosecution of the war.

(c) and (d). He was kept in the Lahore Central Jail from 27th of December 1943 to 21st May 1944; and from 22nd May 1944 to date he has been kept in the sub-jail of Muzaffargarh, except for a period of about 10 days in September 1944, when he was taken to Multan for medical treatment and kept in the new sub-jail there.

(e) No, for security reasons.

(f) Rs. 30 p.m.

(g) Yes, in view of the fact that his children are living with their grandmother in a rural area.

**Mr. Abdul Qaiyum:** Is it a fact that the father of Ibad Khan is dead and there is no one to support his two daughters and one son?

**The Honourable Sir Francis Mudie:** I do not know anything about his father. The children are living with their grandmother.

**Mr. Abdul Qaiyum:** Has the Government satisfied itself that the grandmother has got ample means to look after these children?

**The Honourable Sir Francis Mudie:** The Government are satisfied that the allowance paid is adequate: there are three children under 10.

**Mr. Abdul Qaiyum:** With reference to part (b) of the question, the Honourable Member stated that it was to stop him from doing acts prejudicial, etc. May I know if there is a specific charge against him or whether Government considers it desirable in the interests of security not to disclose the nature of the charge?

**The Honourable Sir Francis Mudie:** The Government have reason for considering his detention necessary. I do not know if that is what the Honourable Member means by a specific charge.

#### SUFFERINGS OF PASSENGERS AT VIRANGAM RAILWAY STATION

576. **\*Mr. Manu Subedar:** (a) Has the Honourable the Finance Member received complaints and representations and has he seen such complaints and representations in the press with regard to the intolerable sufferings of passengers at the Virangam station?

(b) What steps have Government taken since the last session to enquire into this matter?

(c) What reports have Government received, and will they circulate these reports to the Members?

(d) Have Government thought of making the examination in the carriages, or in the alternative, on the platform immediately opposite each bogey, which can be screened off on two sides by moving partitions and of increasing the number of entrances between one platform and the other so that those whose examination is finished can go over to the other side?

(e) What was the number of porters licensed to do working at Virangam platform before the examination of outgoing passengers was adopted?

(f) What was their number before the recent method of examination in a small room was adopted?

(g) Has the number been since increased? If so, by how many?

(h) Have Government any information, apart from the insufficiency of porters, as to what charges the public have to pay to the porters, and to Government consider such charges extortionate?

(i) Have cases of incivility by the Railway Police and customs officials been mentioned either in the press or in representations to Government? If so, what steps have been taken to ease the situation with regard to courtesy and helpfulness by officials who are paid by the taxpayer?

(j) Will Government make a clear statement of their policy on the subject as to whether they apprehend goods being brought in which have not paid any customs duty, or whether they apprehend goods being taken out under the export control which should not be taken out, or what is the principal reason why Government will not make a change?

**The Honourable Sir Jeremy Raisman:** (a) Yes.

(b) The matter has been examined in the light of existing conditions and the conclusion arrived at is that in the main this is a case of inspired and systematic agitation whose object, as appears also to be suggested in part (j) of the Honourable Member's question, is to secure abolition of the Cordon. At the same time careful consideration has been given to the whole matter with a view to the removal of any legitimate grievance to passengers that there might be.

(c) Government have had correspondence with their local officers and do not propose to circulate this to Members.

(d) Passengers arriving by certain trains are in fact examined on the metre-gauge platform, and facilities for passing across to the broad gauge platform after examination are being increased. The other suggestions have been considered and found to be impracticable.

(e), (f) and (g). Examination of incoming passengers has been conducted at Viramgam ever since the Cordon was re-imposed in 1927. Outgoing passengers have been examined since early in 1944. In September, 1944, however, following the remodelling of the Railway Station, the Customs arrangements were modified to suit the new premises. The approximate number of licensed porters working before the re-imposition of the Cordon was 90; before the re-modelling, 60; and at present 100. The recent increase is due largely to the re-modelling of the station.

(h) Porterage charges, in common with many others, have recently increased. The present charge is three annas per head load which, in view of the cost of living, is not extortionate.

(i) Government are convinced that, contrary to the suggestion contained in this part of the question, the attitude of local officers is in general both courteous and helpful. Any specific complaint in this regard would be promptly dealt with by the authorities on the spot.

(j) Government apprehend both; but under present conditions the principal danger is in regard to the restrictions on exports.

**Mr. Manu Subedar:** May I know whether any conversations have been started with the Indian States in order to arrive at some satisfactory solution of the problem both of Customs and of ports in order that the Cordon which is causing such grave inconvenience to the public may be removed?

**The Honourable Sir Jeremy Raisman:** The matter to which the Honourable Member refers is one which, to my personal knowledge, has received a tremendous amount of attention and consideration. I cannot say offhand at what stage that particular matter is now, but if the problem has defied solution hitherto it has not been for want of trying.

**Mr. Manu Subedar:** May I know if Government have seen the statement of Mr. B. G. Kher, the late Prime Minister of Bombay, with regard to this continuing inconvenience?

**The Honourable Sir Jeremy Raisman:** I have read various Press cuttings on the matter.

#### BOMBAY SHERIFF'S NOTICE RE WOMEN JURORS

577. **\*Mr. Hoosenbhoy A. Lalljee:** (a) Has the Honourable the Home Member seen the notice of Sheriff of Bombay, dated the 31st January, 1945, regarding Women Jurors?

(b) Will the Honourable Member be pleased to state under which Act it has been possible to allow women who are subjects of the United States of America to serve as Jurors in this country?

(c) Why are the citizens of the Colonies and Dominions particularly South Africa as also of the United States where discriminatory policies against Indians prevail allowed to enjoy this right in India?

(d) What are the reasons for debarring subjects of Indian States and British India who do not happen to be the permanent residents of the city of Bombay from serving on this Jury?

(e) What is the meaning of the term "resident" in this particular case? How many years' residence is implied by it?

(f) What are the reasons for debaring subjects of Indian States who are residents of the city of Bombay and fulfil the qualifications mentioned in the notice referred to above in (a), from serving on this Jury?

(g) What are the reasons for not allowing the Egyptians, Hejazis, Chinese and Russians to serve on this Jury?

**The Honourable Sir Francis Mudie:** (a) I have read the press cutting which the Honourable Member kindly sent to the Legislative Assembly Department.

(b) to (g). Liability to jury service in Bombay is governed by rules made by the High Court and is not the concern of the Government of India.

For the information of the Honourable Member I would, however, refer him for the definition of a British subject to the British Nationality and Status of Aliens Acts, 1914 and 1948, and on the subject of Americans serving as jurors to sections 275 and 312 of the Code of Criminal Procedure.

**Mr. Govind V. Deshmukh:** May I know if this privilege is conferred on women only or on men as well?

**The Honourable Sir Francis Mudie:** Which privilege?

**Mr. Govind V. Deshmukh:** Of being nominated as a juror.

**The Honourable Sir Francis Mudie:** It is referred to in the Act as a liability.

**Mr. Govind V. Deshmukh:** Is this appointment of juror intended to try cases in which Indians are accused or Americans or Europeans?

**The Honourable Sir Francis Mudie:** Jury trials apply to all classes, where they do apply.

**Mr. Hooseinbhoj A. Lalljee:** May I know whether the Local Governments make discrimination between different nationalities over the heads of the Government of India, because the Russians, the Egyptians and the Chinese are debarred?

**The Honourable Sir Francis Mudie:** May I repeat what I said? "Liability to jury service in Bombay is governed by rules made by the High Court and is not the concern of the Government of India".

**Mr. Hooseinbhoj A. Lalljee:** Can the High Court make this discrimination between different races and nationalities?

**Mr. T. S. Avinashilingam Chettiar:** After the Reciprocity Act has been passed by this House, may I know whether the High Court can frame rules authorising South Africans to act as jurors?

**The Honourable Sir Francis Mudie:** So far as I know, that does not arise.

**Mr. Govind V. Deshmukh:** May I know when the rules were framed by the High Court? I want the date and the year?

**The Honourable Sir Francis Mudie:** I have not got that information.

**Mr. T. S. Avinashilingam Chettiar:** The Honourable Member said just now that the question does not arise. It is for you to decide.

**Mr. President** (The Honourable Sir Abdur Rahim): It is very difficult to say. A matter of this kind, is really a question of interpretation of the Law.

**Mr. T. S. Avinashilingam Chettiar:** The question was specifically put whether after the passing of the Reciprocity Act the High Courts are competent to frame rules authorising the South Africans to serve as jurors. I want to know whether the High Court is not subject to the legislation passed in this House.

**Mr. President** (The Honourable Sir Abdur Rahim): If the High Court makes any rules, it is the responsibility of the High Court.

**Mr. T. S. Avinashilingam Chettiar:** Even the High Court is bound by law, Sir.

#### DISABILITY OF INDIAN POLICE TO ARREST AMERICANS FOR OFFENCES

578. **\*Mr. Hooseinbhoj A. Lalljee:** (a) Will the Honourable the Home Member be pleased to state whether it is a fact that an American Civil or Military subject cannot be arrested by the Indian Police or tried by a British

Indian Court for an act committed by him which is an offence under the Indian Penal Code? If so, since when, and what are the reasons for this discrimination, and what steps have Government taken to protect the Indian public against such persons?

(b) Do the Indians enjoy the same privilege in America? What other European and Asiatic people enjoy the same privilege in America?

(c) Is it a fact that a European cannot be arrested by an ordinary Indian police constable? If so, why?

(d) Is it a fact that a European can claim in India to be tried by a purely European jury? If so, why? Can an Indian, too, claim a purely Indian jury? If not, why not?

**The Honourable Sir Francis Mudie:** (a) In respect of civilian American subjects the police and courts of British India are competent to exercise all their normal powers. The position in respect of members of the forces of the United States of America was explained in detail in the reply to Mr. Essak Sait's Starred Question No. 698 asked on the 29th March, 1944, to which the Honourable Member is referred.

(b) Does not arise, as there are no Indian, Asiatic or European Forces stationed in the United States of America.

(c) No.

(d) No; the Honourable Member's attention is invited to the provisions of sections 275 and 446 of the Code of Criminal Procedure.

**Mr. Muhammad Azhar Ali:** With reference to the answer to part (b), the Honourable Member said that it does not arise, as there are no Indian or European forces stationed in the United States. The question was whether Indians enjoy the same privileges in America. It is simply a question of civilians. It does not refer to the Army.

**The Honourable Sir Francis Mudie:** The only privilege is for the army. Ordinary Americans are subject to the law here and Indians are subject to the law in America. The privilege of being tried by their own courts applies only to the armed forces.

**Mr. T. S. Avinashilingam Chettiar:** May I know whether an American civilian who has committed crimes here is subject to the law here and can be arrested by the ordinary police?

**The Honourable Sir Francis Mudie:** I have answered that question.

**Mr. T. S. Avinashilingam Chettiar:** What is the answer? You must make us understand your answer.

(No reply.)

#### INDIAN TROOPS TAKEN TO GREECE TO FIGHT AGAINST E.L.A.S.

579. **\*Mr. K. S. Gupta:** (a) Will the War Secretary please state how many units of Indian troops were taken to Greece to fight against E.L.A.S.? What are those regiments?

(b) What are the casualties?

(c) What is the number of Indian hostages in Greece?

(d) Is it a fact that the Indian prisoners were treated abominably as they were made to march clad only in underclothes through mountain passes in the snow?

**Mr. G. M. Trivedi:** (a) I would refer the Honourable Member to my reply on the 14th February, 1945, to Mr. Badri Dutt Pande's Starred Question No. 215.

(b) I am now in a position to give the casualties which are as follows:

Killed:—2 Officers, 1 Viceroy's Commissioned Officer and 25 Indian Other Ranks.

Wounded:—3 Officers, 1 Viceroy's Commissioned Officer and 190 Indian Other Ranks.

(c) None as far as I am aware, but I am making enquiries.

(d) It is understood that the mal-treatment of Indian Prisoners was for the most part confined to about 100 personnel of a Field Bakery which was

captured almost complete. Reports from recovered prisoners indicate that Indians were stripped of their clothing, personal effects and boots and were forced to march bare-footed in their under-clothing and that medical attention was refused to the sick and wounded.

**Mr. Abdul Qayyum:** May I know if it is the policy of the Government of India to permit the use of Indian troops in civil wars in other countries?

**Mr. C. M. Trivedi:** May I explain the position in this matter at some length? When Indian troops were moved from Italy to Greece, the move was made for the purpose of following up the German withdrawal from Greece. Subsequently troubles broke out in Greece and as the Indian troops were there, they were necessarily involved in these troubles.

**Mr. Abdul Qayyum:** May I know if the Government of India will point out to His Majesty's Government that it is not considered desirable in this country that our troops should be used in civil wars in other countries?

**Mr. C. M. Trivedi:** As I have said the troops had no option but to be involved in these troubles because they were in the thick of the troubles. The Indian troops were not sent from Italy to Greece to take part in civil war, but they were merely sent to follow up the German withdrawal. When they were relieving and assisting the Greek population, internal trouble broke out, and Indian troops, being there, got necessarily involved.

**Dr. Sir Zia Uddin Ahmad:** What action have the Government taken against this mal-treatment of Indian troops?

**Mr. C. M. Trivedi:** We have asked the Secretary of State for India to remonstrate most strongly against the treatment of Indian troops.

**Dr. Sir Zia Uddin Ahmad:** Was any reply received from the Secretary of State?

**Mr. C. M. Trivedi:** Not yet.

**Mr. Hoosainbhoy A Laljee:** Will they get any compensation?

**Mr. C. M. Trivedi:** As I said, we have asked the Secretary of State to make a strong remonstrance.

**Dr. G. V. Deshmukh:** Have you suggested the type of demonstration that he should make.

**Mr. C. M. Trivedi:** No demonstration, but remonstrance.

**Dr. G. V. Deshmukh:** But it will end in demonstration.

**Prof. N. G. Ranga:** With reference to part (b), in regard to casualties, the Honourable Member gave figures as regards officers, but what about the ranks?

**Mr. C. M. Trivedi:** I have also said, killed—25 Indian other ranks and wounded—190 Indian other ranks.

#### RELEASE OF AILING CONGRESS WORKING COMMITTEE MEMBERS

580. **\*Mr. Satya Narayan Sinha:** Will the Honourable the Home Member in view of the answer given by him in regard to the health of the Members of the Congress Working Committee, consider the advisability of releasing those who have considerably lost in weight and also those who require major operations for their ailments?

**The Honourable Sir Francis Mudie:** I have nothing to add to my reply to parts (b) and (c) of Mr. Badri Dutt Pande's starred question No. 117 on 10th February, 1945.

**Mr. Badri Dutt Pande:** In view of the fact that all these leaders of Congress are suffering from one ailment or another, is it the intention of Government to send them to some sanatorium and keep them under the treatment of a doctor of their own choice? What objection do Government have to this course?

**The Honourable Sir Francis Mudie:** It does not sound practical unless they are all suffering from the same ailment and agree on the same doctor.

**Mr. Badri Dutt Pande:** Has Pandit Gobind Vallabh Pant been operated?

**The Honourable Sir Francis Mudie:** Not yet.

**Mr. Satya Narayan Sinha:** What is the difficulty in sending them to their respective Provinces?

**The Honourable Sir Francis Mudie:** None.

**Mr. Satya Narayan Sinha:** Then why don't you send them?

**The Honourable Sir Francis Mudie:** They are being sent.

**Mr. T. S. Avinashilingam Chettiar:** Has anybody been sent already?

**The Honourable Sir Francis Mudie:** As far as I know none has yet gone.

PUBLIC RELATIONS DEPARTMENT

**581. \*Mr. Manu Subedar:** (a) Will the War Secretary please state when the Department of Public Relations was established for the Army?

(b) How many men are employed now, and what is the annual cost of this Department?

(c) Is there a Central Department only or is there a separate personnel attached to each Command, and, if so, what is the separate cost of each Command, and what is the cost of the Central Department?

(d) How many men are there drawing more than Rs. 250 a month in the entire Public Relations personnel of the Indian Army?

(e) What are the qualifications of the top men? Are they military men or journalists? If latter, what is their previous experience?

**Mr. C. M. Trivedi:** (a) On the assumption that the Honourable Member is referring to the Directorate of Public Relations, the reply is that it was set up on the 25th of June 1940.

(b) The answer to the first part is, 811. As regards the second part, the annual expenditure incurred by the Directorate is about 52.4 lakhs of Rupees. A sum of about 6.4 lakhs of Rupees is however recovered by the sale of publications and photographs.

(c) The Directorate is controlled from General Headquarters where there is a Central Section. Sections are also attached to the various Commands. A statement showing the expenditure incurred separately on each section is laid on the table.

(d) 222.

(e) The Director and his Deputy Directors possess high journalistic qualifications and were journalists in civil life. They now hold military ranks.

*Statement showing the expenditure incurred by various sections of the Directorate of Public Relations attached to Commands, etc.*

<i>Section of the Public Relations Directorate</i>	<i>Rs.</i>
Central Section . . . . .	30,12,088
SEAC and ALFSEA . . . . .	2,06,880
Censors, Bombay . . . . .	1,09,392
Censors, Calcutta . . . . .	12,000
Film Section . . . . .	4,07,406
Military Public Liaison (Punjab) . . . . .	4,89,720
Military Public Liaison (Assam) . . . . .	1,61,268
Sections with PAIFORCE, Middle East and Central Mediterranean . . . . .	4,53,084
Publicity for Indian fighting services in the U. K. . . . .	53,760
Publicity for Indian fighting services in the U. S. A. . . . .	23,400
N. W. Army . . . . .	59,580
Eastern Command . . . . .	83,580
Southern Army . . . . .	93,096
Central Command . . . . .	74,820
Total . . . . .	52,40,074

**Prof. N. G. Ranga:** How many of these 811 are Indians?

**Mr. C. M. Trivedi:** I am afraid I have not got the information. I think a very large number of them are Indians. I can get the exact information if the Honourable Member wants it.

**Prof. N. G. Ranga:** Who is the head of this Department, an Indian?

**Mr. U. M. Trivedi:** The Director of Public Relations is Brigadier Desmond Young and his Deputy Director is Col. Malik, an Indian.

**Mr. Manu Subedar:** What is the purpose of setting up this Department not only in the Centre but in Provinces and outside countries?

**Mr. C. M. Trivedi:** The function of the Directorate is to publicise the fighting forces.

**Mr. Manu Subedar:** Is it publicity for the fighting forces or is it publicity regarding the army among the civil population?

**Mr. C. M. Trivedi:** I am sorry. I should have said, to publicise the fighting forces among the civil population and also publicity directed towards the fighting services.

**Mr. T. T. Krishnamachari:** May I ask whether Indians in this Department are rarely allowed to rise beyond the rank of a Captain?

**Mr. C. M. Trivedi:** That is not correct.

**Prof. N. G. Ranga:** Why is it that this Department is set up, apart from the control that the Department of Information and Broadcasting exercises over publicity Department and the activities of the Government?

**Mr. C. M. Trivedi:** This is a special Publicity Department, the object of which, as I said, is to publicise the fighting forces to the public and to arrange special publicity material for the forces.

**Mr. Manu Subedar:** Is the Department of Information and Broadcasting not doing anything in that direction?

**Mr. C. M. Trivedi:** The Department of Information and Broadcasting is doing quite a lot in matters not exclusively relating to the fighting forces.

**Mr. Manu Subedar:** Why then have this duplication?

**Mr. C. M. Trivedi:** There is no duplication at all.

#### INDIA'S STERLING BALANCES

**582. \*Mr. Amarendra Nath Chattopadhyaya:** (a) Will the Honourable the Finance Member be pleased to state if the huge credit in sterling balances accumulated in favour of India would be available for the economic needs of the millions of Indians who toiled for producing the supplies for war from India? If so, when?

(b) Would this be available during the war, or would this be available immediately after the war, or would it be available in remote future?

(c) Is the Honourable Member aware of the prevailing apprehension in many capitalist quarters, specially big business quarters, that the huge debt of United Kingdom to India might be repudiated on many pleas? If so, does the Honourable Member propose to make a statement on the matter as it stands at present?

**The Honourable Sir Jeremy Raisman:** (a), (b) and (c). I would refer the Honourable Member to the remarks which I made on this subject in my last Budget speech.

#### INDIA'S STERLING BALANCES

**583. \*Mr. Amarendra Nath Chattopadhyaya:** (a) Will the Honourable the Finance Member be pleased to state if he has any scheme ready for realisation of the said sterling balance by India?

(b) Will the Honourable Member be pleased to make a statement on the floor of the House if there is any question of revision relating to the allocation of war expenses between His Majesty's Government and that of British Government in India still pending solution?

(c) Will the Honourable Member be pleased to state the total amount of the sterling balances accrued to the credit of India up to February 15, 1945, and the amount standing to be realised by India now?

(d) Will the Honourable Member be pleased to state if any bilateral agreement between the United Kingdom and India has been entered into? If so, when and on what terms?

**The Honourable Sir Jeremy Raisman:** (a), (b) and (d). I would refer the Honourable Member to the remarks which I made on these subjects in my last Budget speech.

(c) I would invite the attention of the Honourable Member to the published statement of accounts of the Reserve Bank for the week ending 16th February.

**Prof. N. G. Ranga:** With reference to part (b), there was no reference to this in the speech of the Honourable Member. The question is:

"Will the Honourable Member be pleased to make a statement on the floor of the House if there is any question of revision relating to the allocation of war expenses between His Majesty's Government and that of British Government in India still pending solution?"

We already put the question whether the Government of India were making any suggestion to England to put a ceiling upon India's burden regarding war expenditure, but no reply was given and there is no reference to the same in the Budget speech?

**The Honourable Sir Jeremy Raisman:** If the Honourable Member will read my Budget speech, he will find that I have given the answer to that question.

#### TREATMENT OF INDIAN PRISONERS IN GREECE

†584. \***Sardar Mangal Singh:** Will the Honourable the Defence Member please state:

(a) whether his attention has been drawn to a press statement published in the *Hindustan Times*, dated the 11th February, 1945, by two British M.P.'s, on their return to London from Greece in which they are reported to have said that the treatment of Indian prisoners was abominable;

(b) whether he had made fresh enquiries about it and how far the statement is correct; and

(c) the number of Indian prisoners so treated?

**Mr. C. M. Trivedi:** (a) Yes, Sir.

(b) and (c). I would invite the attention of the Honourable Member to the answer given by me today to Mr. K. S. Gupta's starred question No. 579.

#### LANGUAGE CONTROVERSY OF ALL-INDIA RADIO

†585. \***Sardar Mangal Singh:** (a) Will the Honourable Member for Information and Broadcasting please make a statement about the language controversy of the All-India Radio that had been going on for the last several months; and

(b) what exactly the complaint was of the Hindi speaking writers and speakers who went to the length of boycotting the All-India Radio programme?

**Mr. G. S. Bozman:** (a) I have nothing to add to the reply given by me on 14th February, 1945 to Mr. Govind V. Deshmukh's starred question No. 208.

(b) The complaints have been published in newspapers. I am sure the Honourable Member does not wish me to repeat the arguments already extensively debated in public.

#### DAMAGE BY WHITE ANTS TO DR. RAJENDRA PRASAD'S PAPERS

586. \***Mr. Satya Narayan Sinha:** (a) Has the attention of the Honourable the Home Member been drawn to the news that appeared in the *Hindustan Times*, dated the 18th February, 1945, that the white ants have eaten away Dr. Rajendra Prasad's important papers which were locked up by the police in Sadaquat Ashram, the Provincial Congress Office?

(b) If the reply be in the affirmative, does the Honourable Member propose to advise the Government of Bihar to return the Sadaquat Ashram to the proper authorities of the Congress to avoid further damage to the valuable papers, documents and books kept therein?

**The Honourable Sir Francis Mudie:** (a) I have read the report in the Press.

(b) No. This matter is entirely the concern of the Government of Bihar.

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

**CRIMINAL ASSAULT BY BRITISH NAVY MEN ON INMATES OF A HOUSE IN HOWRAH**

**587. \*Mr. K. C. Neogy:** (a) Will the War Secretary be pleased to state whether the attention of the military authorities has been drawn to an incident, the details of which are given below:

"On the night of the 31st October, 1944, J. Kane and F. Cousins, two British personnel, attached to the Royal Navy and stationed in the premises of the Hooghly Docking Company Limited, close to Golabari Police Station, Howrah, managed to get access into house No. 19, Atul Ghosh Lane, by negotiating a fencing on the back of the house and started shouting "*Bibi Kahan*" (where are the womenfolk). Realising the situation the owner of the house offered to procure for them a woman if they went outside the house as it was not a house of ill-fame. The intruders by the time battered the door of a room which was occupied by an ailing girl aged about 20 years, the daughter of the house-owner who was reported to be suffering ever since she gave birth to a child sometime ago. The door of the room gave in and the entreaties of the house-owner to spare his sick child were of no avail. The father of the girl was silenced on the point of a revolver. The intruders ravished the girl one after the other and as a result she was rendered unconscious for the time being. She was later sent to hospital where she was detained for treatment for about a month. The intruders fired a shot to scare aware a crowd that had assembled and were incidentally taken to the local police station from where they were taken away by military authorities"?

(b) Will the Honourable Member make a full statement giving the accounts of all charges of assaults or attempted assaults on women by Military personnel that may have come to the notice of the military authorities in the Provinces of Bengal and Assam since the beginning of 1944?

(c) What action has been taken in the case cited in (a) above, as also in similar other cases referred to in (b) above, to bring the offenders to book, and what special action, if any, has been taken by the military authorities for the purpose of awarding deterrent punishment to the culprits and preventing the recurrence of such incidents?

(d) Is it a fact that newspapers are not permitted to report such cases? If so, why?

**Mr. C. M. Trivedi:** (a) and first part of (c). I am unable to say whether the facts are as stated by the Honourable Member—the matter is now *sub judice*. At the instance of the Naval authorities, investigations were carried out by the Special Investigation Branch of the Military Police, and the two persons concerned who were Naval Ratings, were held in close arrest by the Naval authorities. The case was later handed over to the Civil authorities and the accused were committed to the Sessions Court by the District Magistrate, Howrah, under charges framed under sections 458 and 376 of the Indian Penal Code.

(b) and second part of (c). There appear to have been 71 such cases but the preparation of a full statement would involve an amount of time and labour which I feel would be disproportionate with the value of the result. If the Honourable Member wants details of any particular case, I shall collect the information for him. In all such cases, if the culprits are not caught red-handed, the most thorough investigations are made by the Military Special Investigation Branch who work in close collaboration with the Civil Police. According to available records, severe sentences have invariably been awarded in such cases and it is considered that this exercises a deterrent effect.

(d) No, Sir. The instructions given to Press Advisers on this subject are as follows:

"There is no desire or intention to conceal the facts when these are established; but Government relies upon the good sense and responsibility of editors in ensuring that unfounded and exaggerated reports are not published in their columns."

**Mr. K. C. Neogy:** Has the Honourable Member's attention been drawn to the recent proceedings of the Bengal Legislative Assembly where complaints were made that in several instances armed personnel trespassed into the houses of private citizens of Calcutta and that women were molested?

**Mr. C. M. Trivedi:** I have not seen the proceedings of the Bengal Legislative Assembly to which the Honourable Member refers; but if such instances have taken place I have no doubt that the necessary action is being taken by the military and civil authorities jointly.

**Mr. Abdul Qayyum:** Of the 71 cases sent up to the courts may I know how many ended in conviction?

**Mr. C. M. Trivedi:** I have not got the information with me here.

**Mr. Abdul Qayyum:** Will the Honourable Member get this information?

**Mr. C. M. Trivedi:** Yes, Sir, I will.

#### RESTRICTION ON NEWS ABOUT STREET ACCIDENTS BY MILITARY LORRIES IN CALCUTTA

**588. \*Mr. K. C. Neogy:** Will the War Secretary please state if it is a fact that in cases of serious accident to passers-by caused by reckless driving of military motor lorries, references are allowed to be made in the Calcutta newspapers only on the understanding that the lorries are described as "special type" lorries and not as military lorries, so as to allow no idea to the readers about the responsibility of military personnel for such street accidents? What are the exact intentions of the Military authorities?

**Mr. C. M. Trivedi:** I have no knowledge of this, but I am making an enquiry from the Bengal Government and will lay the information on the table of the House as soon as possible.

#### POLICY RE PROVISION OF DOLLAR CREDITS TO INDIANS

**589. \*Mr. K. C. Neogy:** (a) Will the Honourable the Finance Member be pleased to state the present policy of Government in regard to the provision of dollar credits to Indians?

(b) How many applications have been received so far from Indian trade and industrial interests for the provision of dollar credits in order to enable representatives of Indian firms (i) to proceed to the United States of America for trade and industrial purposes, (ii) to bring from the United States of America technical personnel in connection with projects for the industrial development in India? When were such applications made in each case, and what orders have been passed thereon?

(c) Is it a fact that there is a steadily growing dollar balance in India's favour?

(d) Who are the authorities, if any, outside India to be consulted in regard to the provision of dollar facilities in India for such purposes, and what voice have they in making the final determination of the issues involved in such cases?

**The Honourable Sir Jeremy Raisman:** (a) The general policy, briefly stated, is that dollar exchange is provided for the satisfaction of needs essential to the war effort or for the maintenance of the national economy on a war basis. In addition such dollar expenditure is permitted within limits as is necessary to ensure the development of Indian economy in the post-war period.

(b) I regret it is not possible to collect the information without an expenditure of time and labour which would be unjustified.

(c) As I have explained on previous occasions, the total dollar earnings of all empire countries are surrendered to the Empire Dollar Pool from which each country draws dollars according to its needs and there is no fixed allocation between the sterling area countries. The question whether there is a steadily growing dollar balance in India's favour, therefore, does not arise.

(d) The Government of India endeavour in this matter to follow the same general policy and standard of economy as the other members of the sterling area, but the final decision rests with the Government of India.

**Mr. Manu Subedar:** May I know how many applications for dollar credits from industrialists, businessmen and merchants were rejected by Government?

**The Honourable Sir Jeremy Raisman:** I have not got complete figures on this matter, but from information which I have only just received I gather that according to the records of the Reserve Bank out of 54 applications received 10 have been rejected, 32 have been authorised and 12 are pending.

**Mr. T. T. Krishnamachari:** With reference to part (c), has the Honourable Member's attention been drawn to the statement made by a Deputy Governor of the Reserve Bank some time in December that the dollar position is extremely satisfactory, and may I know whether that means that the accumulated resources in the Empire Dollar Pool have risen, and whether it also means that India will get a proportionate benefit therefrom?

**The Honourable Sir Jeremy Raisman:** I am answering that question later on this morning. The facts are not as alleged.

#### COMMUNAL REPRESENTATION VIS-A-VIS PROMOTIONS

†590. **\*Nawab Siddique Ali Khan:** (a) Will the Honourable the Home Member please state whether it is a fact that rules regarding communal representation in services apply to direct recruitment and not to promotion?

(b) What is the criterion for appointing authorities to decide whether a particular appointment be treated as promotion or direct recruitment?

(c) If some new post or new service is created in the department and persons already serving in a department are appointed thereto, will the appointment be treated as direct recruitment or promotion for the purpose of communal rule?

**The Honourable Sir Francis Mudie:** (a) Yes.

(b) In these rules, "promotion" is used in its ordinary sense of promotion to a higher post in the same service or from a lower service from which promotion is generally made to the service concerned.

(c) In so far as a new post is created in an existing service, it is filled, in the ordinary way, from the members of that service, strengthened, if necessary by additional recruitment. When a new service is formed, the question of how the initial appointments to that service are to be made is one that can only be decided on the merits of each case.

#### PROVISION OF DOLLAR CREDITS FOR INDIAN IMPORTS

591. **\*Mr. Satya Narayan Sinha:** (a) Has the attention of the Honourable the Finance Member been drawn to the editorial article "Dollar Credits" which has appeared in the morning issue of the *Hindustan Times* of the 13th February, 1945?

(b) Will the Honourable Member be pleased to clarify the position of the Government with regard to providing the dollar for the import of necessary goods in this country?

(c) Is it a fact that the dollar credits are made freely available for British propaganda in the United States?

(d) What happened to the application for dollar credit in order to bring from the United States urgently required technical personnel for industrial development in this country?

**The Honourable Sir Jeremy Raisman:** (a) Yes.

(b) I would invite the Honourable Member's attention to the reply I have given to part (a) of Mr. K. C. Neogy's starred question No. 589 today.

(c) Government have no information.

(d) I am not aware to which particular application the Honourable Member is referring.

**Prof. N. G. Ranga:** In view of the lease-lend transactions, is it not a fact that England's dependence upon dollar securities for immediate use is not so great as it used to be?

**The Honourable Sir Jeremy Raisman:** As a broad general proposition there is some force in what the Honourable Member says, but the matter could not be disposed of quite so simply as that.

**Prof. N. G. Ranga:** But in view of the changing circumstances of the war is it not advisable that a representation should be made to H. M. G. that the present sterilisation or conscription of India's dollar resources should be given up and India should be given an opportunity of making whatever use she likes of her dollar securities?

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

**The Honourable Sir Jeremy Raisman:** The circumstances of the war have not changed to such an extent as to make it possible to disperse the Empire Dollar Pool.

**Mr. Manu Subedar:** Has the Honourable Member any serious objection now to disclose what part of the dollar pool should have gone to India and in future to reserve such dollars for India even for the use of the sterling block as a gift?

**The Honourable Sir Jeremy Raisman:** These calculations are not easy to make and in any case it would not be possible to make them public at this stage.

**Mr. Satya Narayan Sinha:** With reference to part (d), has the Honourable Member got any information about any application submitted to Government for dollar credits in order to get technical personnel for industrial purposes?

**The Honourable Sir Jeremy Raisman:** There have been quite a number of applications. As I mentioned in reply to the last question I answered, there have been quite a number of applications of that kind. I may say that the policy is that applications for the employment of technical personnel are sanctioned in cases where they are required (a) for the operation of existing plant, (b) for the establishment and working of new plant for which import licences have been or are being issued, and (c) to explore the possibility of establishing certain industries in India where the establishment of such an industry has the approval of the Planning and Development Department.

**Mr. Manu Subedar:** Is it a condition that applicants to the Reserve Bank should come after they have secured an order from an exporter in the U. S. A.?

**The Honourable Sir Jeremy Raisman:** I am not sure: I would require notice of that question.

#### STEPS FOR PUBLICITY FOR BENEFIT OF INDIANS IN LIBERATED BURMA

592. **\*Mr. K. O. Neogy:** (a) Will the Honourable Member for Information and Broadcasting be pleased to state whether any steps have been, or are to be, taken for the purpose of carrying on publicity for the special benefit of Indians at present residing in those tracts of Burma which are gradually being liberated from enemy occupation?

(b) Are newspapers in Indian languages being supplied to these areas for the benefit of the Indian population? If so, which are these newspapers and in what numbers are they being actually distributed in the different areas?

(c) What is the policy of Government in regard to carrying on special broadcasting and other publicity programmes for the benefit of the Indian population in liberated portions of Burma?

**Mr. G. S. Bosman:** (a) All-India Radio have been running a programme since the end of 1941 directed to Indians in Japanese occupied territories in the Far East. These broadcasts contain news, music and counter-propaganda material.

(b) Not yet.

(c) Broadcasts directed to liberated areas will include material of interest to the Indian communities there.

**Mr. K. O. Neogy:** With reference to part (b), is the matter under active consideration now?

**Mr. G. S. Bosman:** Yes, Sir.

#### NON-APPOINTMENT OF MR. KARTAR SINGH (SCHEDULED CASTE) TO INDIAN CIVIL SERVICE

593. **\*Mr. Piare Lal Kureel:** (a) Will the Honourable the Home Member be pleased to state whether a vacancy was reserved in the Indian Civil Service in the year 1941, for a candidate from the scheduled castes?

(b) How many scheduled castes candidates appeared in the Indian Civil Service Examination in 1941, and how many of them obtained qualifying marks?

(c) Is it a fact that a candidate from the scheduled castes namely Mr. Kartar Singh, had qualified both in written and in *viva voce* in the said examination?

(d) If the reply to part (c) above be in the affirmative, why was he not appointed?

(e) Does the Honourable Member propose to reconsider his case? If not, why not?

**The Honourable Sir Francis Mudie:** (a) One vacancy was held in reserve for the nomination of a candidate of the Scheduled Castes if a suitable candidate was available. In the event of no candidate of these castes being successful by open competition or found suitable for nomination, the vacancy was to be filled by open competition.

(b) Seven Scheduled Castes candidates appeared for the examination but only one of them obtained qualifying marks in the written tests.

(c) and (d). The candidate just attained the qualifying standard in the open competition but the place which he secured in the list was much too low for appointment to the Service, nor did he obtain in the *viva* the minimum qualifying marks fixed by the Federal Public Service Commission for purposes of nomination.

(e) No. The vacancy was filled by open competition in accordance with the terms mentioned in (a) above.

**Mr. Piare Lal Kureel:** In view of the fact that this candidate was the only Scheduled Caste candidate, who had qualified both in written tests and *viva*, why was he not appointed? He had passed the examination and will the Honourable Member state why he, as the only scheduled caste candidate who has so far qualified in the I. C. S. was not appointed?

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member cannot make a speech. Next question.

#### SUPPLY OF LEGISLATURE DEBATES TO ACCREDITED PRESS CORRESPONDENTS AND NEWSPAPERS

**594. \*Mr. Badri Dutt Pande:** Will the Honourable Member for Information and Broadcasting please refer to the reply given to unstarred question No. 10, asked on the 21st November, 1944 (pages 1118-1119 of the Debates), regarding conferences with Accredited Press Correspondents and state:

(a) if it is a fact that the Legislative Assembly and Council of State Debates are only supplied to correspondents in (A) class and not to correspondents in (B) class; if not, what the fact is;

(b) if it is a fact that the Debates so supplied to correspondents in (A) class are also supplied to the Editors of their newspapers or news-agencies; if not, what the fact is; if so, the reasons for the duplicate expenditure when these correspondents have the access to the Library maintained by the Information Bureau; and

(c) whether Government now propose to stop supply of such material in book form to those correspondents who have the privileges of access to library and conferences; if not, why not?

**Mr. G. S. Buzman:** (a) Legislative Assembly and Council of State debates are supplied only to correspondents in category (A).

(b) The debates are supplied to editors of certain important newspapers especially those outside Delhi for facility of their own work. These copies are not available to the headquarters correspondents of those papers. The copy maintained in the Library of the Bureau of Public Information is available only during office hours and cannot be removed.

(c) No. Both Category (a) and (b) correspondents are entitled to use the Government of India Press Room and Library attached to the Bureau of Public Information.

#### MINUTES OF THE ACCREDITED PRESS CORRESPONDENTS' CONFERENCES

**595. \*Mr. Badri Dutt Pande:** (a) Will the Honourable Member for Information and Broadcasting please refer to the reply to part (b) of unstarred question No. 109, asked on the 21st November, 1944 (pages 1118-1119 of the Debates), regarding conferences with Accredited Press correspondents, *vis.?*, "No record is kept of the number of correspondents who attended these

conferences', and state whether any minutes or the proceedings of the conferences are recorded by the officers who called the conference? If not, what are the reasons therefor?

(b) What are the reasons for keeping those correspondents in class II who attended the conferences before the said classification more regularly than those who are in class I?

(c) Do Government now propose to remove the classification and treat all correspondents equally? If not, why not?

**Mr. G. S. Bozman:** (a) Press Conferences are arranged sometimes on the initiative of the Information Officer and sometimes at the request of a Department of the Government of India. Generally, a hand-out is issued at Press Conferences and notes are maintained of the proceedings. These notes are however kept solely to elucidate points about which press correspondents are in doubt. Minutes of proceedings as such are not maintained.

(b) A correspondent is accorded category 'A' or 'B' privileges according to: (i) the time he has spent and/or the status he has attained in the profession, and (ii) the standing of the newspaper or news agency he represents.

(c) No Sir. As explained in this House on 28th March, 1944, in reply to part (e) of Bhai Parma Nand's question No. 655, Government are satisfied that the classification helps to place representation of newspapers or news agencies at the headquarters of the Government of India on a more satisfactory basis and enables correspondents to provide a more effective news service.

**Prof. N. G. Ranga:** Has the All-India Newspaper Editors' Conference or Association been consulted before making this classification as between one class of newspaper correspondents and the other?

**Mr. G. S. Bozman:** This classification was made in consultation with the Press Association.

#### ACCIDENT BY MILITARY LORRY IN MADRAS

596. \***Mr. K. S. Ghpta:** (a) Has the attention of the War Secretary been drawn to the fact that a woman was fatally run over by a Military lorry in Madras on the 9th February, 1945?

(b) Is he aware that road accidents due to the plying of military lorries (otherwise called special type) are on the increase from day to day?

(c) Is he aware that on one day in Calcutta some 20 road accidents were caused by the so called special type lorries? If so, what is the action taken or proposed to be taken to safeguard the lives and limbs of pedestrians?

**Mr. C. M. Trivedi:** (a) The Honourable Member has apparently been misinformed; no such accident occurred in Madras on that day.

(b) and (c). I would refer the Honourable Member to my reply to parts (a) to (c) of Sir Abdul Halim Ghuznavi's starred question No. 361 of the 19th February, 1945.

**Shrimati K. Radha Bai Subbarayan:** May I ask, Sir, if the Government are aware that a good number of these drivers are not properly trained and if they had been civilians, the Police would have refused to give them driving licences?

**Mr. C. M. Trivedi:** I do not admit for a moment that the military drivers are not properly trained. In fact they are trained in a very thorough manner and if the Honourable Member, who has asked this supplementary question would care to visit one of the training centres, I will be very glad to take her round.

**Mr. T. S. Avinashilingam Chettiar:** Are they trained just to run over men?

**Mr. C. M. Trivedi:** Not at all.

**Mr. H. A. Sathar H. Essak Salt:** Is it a fact that only nine hours training is required for getting a permit?

**Mr. C. M. Trivedi:** That is not correct. I think the training is for about 200 hours.

**Mr. Manu Subedar:** May I know what these large number of troops are doing in large cities like Bombay, Calcutta, Madras and so on?

**Mr. C. M. Trivedi:** They are doing their duty.

**Mr. Manu Subedar:** Why should not these troops and their lorries be located outside of these large city areas to do their duty instead of in large cities where they commit these crimes and where they run over people?

**Mr. C. M. Trivedi:** I must repudiate the insinuation that these troops commit crimes in big cities. Accidents do happen, and they are not confined only to military drivers.

**Mr. Manu Subedar:** Are they fighting Japan from these big cities?

(No answer was given.)

**Qazi Muhammad Ahmad Kazmi:** How many people do they kill during these 200 hours training?

**Mr. C. M. Trivedi:** None whatever.

#### RECRUITMENT OF CRIMINALS FOR WAR PURPOSES IN AMERICA AND CANADA

**597. \*Mr. K. S. Gupta:** (a) Is the War Secretary aware that all the jails in (i) the United States of America and (ii) Canada are thrown open to recruit the criminals for war purposes?

(b) How many of such recruits were brought to India?

(c) Is it a fact that crimes by Americans are on the increase due to the advent of such units?

(d) Is there any mark of identification 'G' on the shoulders of such recruits?

**Mr. C. M. Trivedi:** (a) The Honourable Member has been misinformed. With regard to the United States of America, there is a provision of American law that no person who has been convicted of a felony shall be enlisted or mustered into the military service; and there is further an opinion by the Attorney General that this cannot be waived even in the case of persons who have been pardoned by the President or by the Governor of a State.

With regard to Canada, no information is available, but there are no Canadian units in India.

(b), (c) and (d). Do not arise.

#### TRIALS OF AMERICANS UNDER INDIAN LAW

**598. \*Mr. K. S. Gupta:** (a) Will the Honourable the Home Member please state whether the Americans are tried under the law of the land in India?

(b) How many of them were punished under (i) the Defence of India Rules (ii) the Indian Penal Code, and (iii) Special ordinances?

(c) Are the trial courts constituted by the military or civil authorities?

(d) Are there any special tribunals constituted to try the foreign offenders? If so, are there any Indian jurists on the tribunals? If not, why not?

(e) Is it a fact that the American criminals after their release are allowed to remain in India? Do the Government of India propose to see that such people are sent back to their country on the expiry of the sentences?

**The Honourable Sir Francis Mudie:** (a), (b), (c) and (d). Members of the American armed forces serving in India are not triable by British Courts or under British Indian Law. By virtue of the provisions of Ordinance LVII of 1942 they are triable by American Courts maintained under American military law. All other Americans are subject to British Indian law and to the jurisdiction of Indian Courts.

(e) Persons sentenced by American Military Courts to more than 18 months confinement and those "dishonourably discharged" from the service are sent back to the United States of America to serve their sentence or to be discharged as the case may be and are not allowed to return to India. In other cases the decision to allow them to remain in India or to send them back depends upon the nature and seriousness of the offence committed. The procedure does not call for any action by the Government of India.

#### PROFICIENCY ALLOWANCE FOR STENOGRAPHERS

**599. \*Mr. Sami Venkatchelam Chetty:** (a) Will the Honourable the Finance Member be pleased to state if a Proficiency Allowance of Rs. 25 or

thereabouts will be granted to such of the stenographers of the Government who qualify themselves in a test to be conducted periodically by the Federal Public Service Commission?

(b) Was any such order issued or is being issued? If so why?

(c) Why are not stenographers recruited by the Federal Public Service Commission?

(d) Would the new order apply to all stenographers in service whatever their service has been?

(e) Would those who do not qualify in the test be also eligible for the allowance?

(f) What would be the total cost of such allowance proposed to be granted? Sub-question (e) is meaningless as it stands.

**Mr. President** (The Honourable Sir Abdur Rahim): Then you don't want to put this question?

**Mr. Sami Vencatachelum Chetty**: I want to put the question with a slight modification with regard to (e) which I think has been misprinted. Part (e) of the question should read thus:

"(e) Would those who do not sit for the test be also eligible for the allowance when they are much senior in service?"

**The Honourable Sir Jeremy Raisman**: (a) Yes.

(b) A copy of the orders on the subject is laid on the table of the House. In the centres to which the orders relate Government have found it impossible to recruit or to retain efficient stenographers on the present rates of pay to fill the large number of temporary posts required. They have therefore sanctioned this temporary allowance which will also induce stenographers already in Government employment to keep up their standard of proficiency.

(c) At one time stenographers at Headquarters were recruited through the Public Service Commission, but as the result of experience it was found more satisfactory to leave selection to Heads of Departments and other officers.

(d) The stenographers covered by the orders in the stations referred to therein will be eligible to qualify for the allowance.

(e) No.

(f) It is not possible to calculate the additional expenditure which will be involved on this account until the results of the first test to be conducted by the Federal Public Service Commission are known. It is, however, anticipated that not more than 300 stenographers will sit at the first test. On this assumption, the additional expenditure involved cannot exceed Rs. 7,500 per mensem.

No. D. 44(22)-W/44.

GOVERNMENT OF INDIA

FINANCE DEPARTMENT

New Delhi, the 4th January, 1945.

OFFICE MEMORANDUM

**SUBJECT** :—Grant of a proficiency allowance to Stenographers in the Government of India Secretariat and its attached and subordinate offices in Delhi, Simla, Calcutta and Bombay.

The undersigned is directed to say that the Governor-General in Council is pleased to sanction a proficiency allowance of Rs. 25 per mensem to Stenographers (both on the old and the revised rates of pay) in the Central Government offices in Delhi, Simla, Calcutta and Bombay. The grant of the allowance will have the effect from the 1st October, 1944 and will be subject to the following conditions :—

(i) It will be granted to those stenographers only who maintain a speed of at least 120 words per minute and qualify in each of the tests to be held periodically for the purpose by the Federal Public Service Commission. Instructions regarding the tests will issue separately. Those who fail to pass in any test will cease to draw the allowance at the end of the month in which the test is held.

(ii) It will not be admissible to stenographers whose scale of pay has been improved since the out-break of the war or to those serving in offices in which a higher scale of pay has been sanctioned for a certain proportion of stenographers.

(iii) In the subordinate offices eligibility for the concession will be confined to the stenographers of the head of the office, who are on a distinct scale of pay for stenographers as such.

2. Those who pass the first test to be held in January 1945, will be granted this concession retrospectively with effect from the 1st October, 1944, while those qualifying in the subsequent tests will be eligible for it from the beginning of the month in which such a test is held a new recruit will begin to draw the allowance only after he has qualified in the test. The concession will, however be admissible only for the duration of the war.

3. It has been decided to treat the proficiency allowance as 'pay' under Fundamental Rule 9(21) (a) (iii).

B. C. A. COOK,

*Deputy Secretary to the Government of India.*

To

All Departments of the Government of India and Secretariats of the Governor-General.

No. F. 44(22)-W/44.

Copy forwarded to the Political Department; the Auditor General of India; the Financial Commissioner, Railways; the Central Board of Revenue; the Financial Adviser, War and Supply; the Additional Financial Adviser (Supply); the Accountant General, Central Revenues; the Crown Finance Officer; Financial Adviser (Communications); the Chief Controller of Supply Accounts; the Controller of Food Accounts; the Accountant General, Posts and Telegraphs; the Joint Financial Adviser (Cotton Textiles); the Director of Audits, Defence Services; the Director of Railway Audit; the Accountant General, Bengal; the Accountant General, Bombay; the Accountant General, Central Provinces and the Accountant General, Madras.

By order, etc.,

*Assistant Secretary to the Government of India.*

**Mr. Sami Vencatachelum Chetty:** Do the Heads of Departments now find that the personnel recruited outside the Public Service Commission is less efficient than those recruited previously by the Commission itself?

**The Honourable Sir Jeremy Raisman:** I am not aware of that, Sir.

**Mr. Sami Vencatachelum Chetty:** If not, then why this sanction of Rs. 25 for a test? If the Heads of Departments did not find them inefficient, why it is necessary to propose a proficiency allowance now?

**The Honourable Sir Jeremy Raisman:** I have given the reason in my reply, Sir.

#### HARDSHIP AS REGARDS RETIREMENT OF CERTAIN I. M. D. (BRITISH CADRE) OFFICERS

**600. \*Mr. Frank R. Anthony:** Will the War Secretary be pleased to state:

(a) whether those members of the I. M. D. (British Cadre) who were officers in the Department at the outbreak of war and who have reached the age of superannuation during the war are being compelled to retire on the rank and pension held by them at the outbreak of the war;

(b) whether many of these persons have already retired or are about to retire on the rank and pension of Lieutenants and Captains when they would normally have, if the war had not supervened, retired on the rank and pension of a Major;

(c) whether the same hardship has been imposed on those who were senior Warrant Officers in the I. M. D. (British Cadre) at the outbreak of war;

(d) if it is a fact that no promotion roster is being maintained for the I. M. D.; if not, why not; and

(e) if it is a fact that the recruitment of military medical students for training for the I. M. D. (British Cadre) has been discontinued; how long this discontinuance is to be operative?

**Mr. C. M. Trivedi:** (a), (b) and (c). The position is that on the formation of the Indian Army Medical Corps in April 1943, all members of the Indian Medical Department in Military employ were transferred *en block* to the Special Medical Section of the Corps. These members became eligible for emergency commissions, but substantive promotion to and in departmental commissioned ranks was stopped. As a result, some of the personnel transferred from the Indian Medical Department are now not enjoying the salaries and status they would have enjoyed had the war not intervened, and some of them might have to retire from a lower rank and at a lower rate of pension than would normally have been the case.

I may however add that this matter is now under consideration.

(d) No, Sir.

(e) Yes, for the period of the war.

**Mr. Frank R. Anthony:** Sir, with regard to the Honourable Member's answer that this matter is under consideration, is the Honourable Member aware that the Military medical authorities themselves recognise the hardship that is being caused by the present interpretation of the rules and that for some reason their recommendation that this hardship should be done away with has been sat upon and is being continued to be sat upon by the Government authorities? Will he see that their recommendations are implemented?

**Mr. C. M. Trivedi:** I cannot disclose the recommendations made by the Military medical authorities but the matter is under consideration and I will see that it is expedited.

**Mr. Frank R. Anthony:** With regard to the answer to part (e), in view of the admittedly acute shortage of medical personnel in India, what purpose was sought to be served by discontinuing the training of medical pupils who have been admitted to have formed a very valuable adjunct to the medical profession of this country?

**Mr. C. M. Trivedi:** So long as the Indian Army Medical Corps is in existence, the Indian Medical Department stands discontinued. That being so, there is no point of continuing the training for entering the Indian Medical Department.

#### BAN ON PUBLICATION OF *DAILY SAINIK*

**601. \*Prof. N. G. Ranga:** Will the Honourable the Home Member be pleased to state:

(a) when the publication of *Daily Sainik* of Agra was stopped by Government, when its press and other associated properties were seized by Government;

(b) whether all this was done under the Defence of India Rules;

(c) whether Government are paying the rent for the buildings in which the *Sainik* press is kept;

(d) whether the press and building have not been damaged during these two years;

(e) why Government are not returning the press to the owners;

(f) whether Government are aware that the *Sainik* press belongs to a public Trust; and

(g) whether Government propose to reconsider their decision and return the press to the owners and pay the rent arrears due on the *Sainik* buildings?

**The Honourable Sir Francis Mudie:** (a) to (g). The Government of India have taken no action against the *Daily Sainik* nor have they information regarding any action that may have been taken by the Provincial Government.

**Mr. Sri Prakasa:** Is it not your ruling, Sir, that if the Defence of India Rules are abused by a Provincial Government, then the responsibility of the Central Government arises?

**Mr. President** (The Honourable Sir Abdur Rahim): If it has been left to the Provincial Government to enforce the Rules, then it is not the responsibility of the Central Government.

#### DEARNESS ALLOWANCE TO GOVERNMENT PENSIONERS

**602. \*Mr. Frank R. Anthony:** (a) Will the Honourable the Finance Member be pleased to state whether it is a fact that Government Pensioners in Great Britain, drawing up to £645, have been granted a dearness allowance?

(b) Are Government aware of the fact that, in spite of the temporary employment of a certain number of Government pensioners in India, the overwhelming majority are too old or infirm or disabled, as the result of the last war, to do anything to add to their present insufficient pensions?

(c) Do the Government of India propose to consider granting at least a similar scale of dearness allowance to Government pensioners in this country, particularly in view of the much greater increase in the cost of living in India as compared with Great Britain?

**The Honourable Sir Jeremy Raisman:** (a) The comparatively small class of British Government pensioners whose pensions are payable under the Superannuation Acts have been granted a temporary increase on pensions below £645 a year. In the remainder (and vast majority) of cases the pensions which qualify for a temporary increase are those below £300 a year in the case of married persons or persons with dependents and below £225 a year in the case of other persons, and the grant of an increase is subject to the important proviso that the total income of the pensioner does not exceed three hundred pounds a year for the former class and £225 a year for the latter class.

(b) and (c). I have nothing to add to the reply given by me to the Honourable Member's starred question No. 481 on the 16th November, 1944.

**Mr. Frank R. Anthony:** Am I to understand, Sir, that the Government of India is not prepared to extend the same consideration by way of relief to its pensioners in this country as the consideration extended to pensioners in Great Britain? What are the reasons, if any, for this differentiation?

**The Honourable Sir Jeremy Raisman:** The Government of India do not undertake to follow the example of the British Government in all matters of this kind. What I said on the last occasion to the Honourable Member was this: "It is a fact that questions relating to dearness allowance come under review from time to time. But I will not commit myself to anything in the nature of a promise."

**Qazi Muhammad Ahmad Kazmi:** Isn't it a fact that some dearness allowance is given to some pensioners, something like Rs. 3 for persons getting up to Rs. 40?

**The Honourable Sir Jeremy Raisman:** A limited amount of relief has been given to pensioners in India.

**Qazi Muhammad Ahmad Kazmi:** Once the Government have accepted the principle that dearness allowance can be given to pensioners, will they not consider the advisability of giving proper dearness allowance consistent with the needs and necessities of those persons?

**The Honourable Sir Jeremy Raisman:** On the last occasion in my answer to Mr. Anthony's question, I did indicate some reasons why the Government of India cannot follow entirely the scheme of dearness allowances in regard to pensioners.

**Qazi Muhammad Ahmad Kazmi:** When was that?

**The Honourable Sir Jeremy Raisman:** It was on the 16th November 1944.

**Qazi Muhammad Ahmad Kazmi:** Can the Honourable Member give an idea of what he said then?

**The Honourable Sir Jeremy Raisman:** If the Honourable Member will refer to the reply which is published in the proceedings of the 16th November, 1944, he will find that I answered at some length.

#### DETENTION OF MR. JAYAPRAKASH NARAYAN AND DR. LOHIA

603. **\*Mr. Sri Prakasa:** Will the Honourable the Home Member be pleased to state:

(a) whether Mr. Jayaprakash Narayan and Dr. Ram Manohar Lohia are security prisoners under Ordinance 3 of 1944 or are detained under Regulation III of 1818, and the exact place in Agra where they are at present confined;

(b) the amenities that are permitted to them in matters of interviews, correspondence, newspapers, books and clothes;

(c) if the two gentlemen are kept in the same barrack or separately; and, if the latter, whether they are allowed to meet each other;

(d) if it is a fact that a letter from me addressed to Mr. Jayaprakash Narayan, while he was at Lahore, was withheld; and, if so, on what grounds;

(e) if there are any special persons appointed to censor letters sent to and by Mr. Jayaprakash Narayan and Dr. Ram Manohar Lohia, or if the same censor looks after their correspondence as of security prisoners generally;

(f) if Mr. Jayaprakash Narayan expressed a desire to sue Government for his maltreatment by the police and applied for an interview with his lawyer, Mr. Jeevan Lal Kapoor; and if the said application was rejected; and, if so, why; and

(g) if it is a fact that the Government of the Punjab by an order prohibited the publication of the proceedings before the High Court of Lahore, of the hearing of the *habeas corpus* application of Messrs. Jayaprakash Narayan and Ram Manohar Lohia as also the publication of its order and any reference thereto; and, if so, whether they consulted the Government of India on the subject before making the order?

**The Honourable Sir Francis Mudie:** (a) Mr. Jai Prakash Narayan and Dr. Ram Manohar Lohia are detained under Ordinance III of 1944 at the Central Jail, Agra.

(b) They enjoy all the amenities permitted by the United Provinces Security Prisoners Rules.

(c) They are kept in the same barrack.

(d) Yes, because the subject matter contravened the rules of the Punjab Government.

(e) The same censor looks after their correspondence as of security prisoners generally.

(f) Yes. Mr. Jai Prakash Narayan applied for an interview with his lawyer on the day when he was due to be transferred to Agra. As all arrangements for his transfer had been completed there was insufficient time to allow the interview and he was advised to apply through the authorities of the jail to which he was being transferred. He has now sent a similar application from jail for interview with a lawyer and it has been granted.

(g) I understand that orders to this effect were issued by the Punjab Government before the court had decided to hold the proceedings *in camera*. The Government of India were not consulted.

**Mr. Sri Prakasa:** With regard to the Honourable Member's answer to part (e) of the question, will the Honourable Member himself call for the letter that I had written and make sure that there was no objection to that?

**The Honourable Sir Francis Mudie:** No, Sir. The decision was taken by the Punjab Government.

**Mr. Sri Prakasa:** In view of the fact that there was nothing political in that letter and that it was a purely personal communication on personal matters, will the Honourable Member make sure that the Punjab Government has not done an injustice both to the writer and the receiver?

**The Honourable Sir Francis Mudie:** The Honourable Member might try it on with the United Provinces Government.

**Mr. Sri Prakasa:** With regard to the Honourable Member's reply to part (e) of the question, are the censors instructed just to allow the words "My dear so and so" and "Yours sincerely, so and so" to pass through, and cut the whole letter like this? (The Honourable Member showed a letter.)

**The Honourable Sir Francis Mudie:** I have no knowledge what instructions the Punjab Government give to their censors.

**Mr. Sri Prakasa:** Will the Honourable Member make sure that such vandalism is not practised, in which the whole letter is cut out, except "My dear so and so" and "Yours sincerely, so and so" in this manner? (The Honourable Member showed the letter again.)

**The Honourable Sir Francis Mudie:** I do not know what has been cut out and so I cannot say whether it is vandalism.

#### PERMISSION FOR INTERVIEWING DR. LOHIA TO HIS FATHER

604. **\*Mr. Sri Prakasa:** Will the Honourable the Home Member be pleased to state:

(a) if Government have received any further applications from Mr. Hiralal Lohia, father of Dr. Ram Manohar Lohia, for an interview with his son or at least for permission to see him;

(b) if he is aware that Mr. Hiralal Lohia is a very old man and is ill and does not expect to live long and that Dr. Ram Manohar Lohia is his only son; and

(c) if he proposes to permit the father to see the son at least once?

**The Honourable Sir Francis Mudie:** (a), (b) and (c). Mr. Hira Lal Lohia has already been given permission to interview his son Dr. Ram Manohar Lohia.

**Mr. Sri Prakasa:** Thank you very much.

**TREATING PROF. GOKUL LAL ASAWA AND MR. MOOLOHAND ASAWA AS 'C' CLASS PRISONERS**

**605. \*Mr. Sri Prakasa:** Will the Honourable the Home Member be pleased to state:

(a) if Prof. Gokul Lal Asawa and Mr. Moolchand Asawa, M.A., LL.B., of Ajmer were put in the "C" Class during their recent imprisonment;

(b) if Prof. Gokul Lal Asawa, was given "A" class treatment during his earlier convictions because of his social status and standard of living and, if so, why the same treatment was not extended to him during his last imprisonment; and

(c) if the Ajmer Administration has any rules or conventions with regard to classification of prisoners in jails; and, if not, whether Government propose to send any instructions in this behalf to the local administration?

**The Honourable Sir Francis Mudie:** (a) Yes.

(b) I have no information about his earlier convictions.

(c) The rules are contained in Chapter 12 of the Ajmer Jail Manual.

**Mr. Sri Prakasa:** With reference to the Honourable Member's reply to part (b) of the question, will he make sure on the subject and get information, because, my information is definite that he was put in the "A" Class first and that for the second conviction he was put in the "C" Class.

**The Honourable Sir Francis Mudie:** Yes, I will make definite enquiries.

**Mr. Sri Prakasa:** With respect to the Honourable Member's reply to part (c), will he also give instructions to the Ajmer Administration to be more careful in the matter, because it is clear that, under the rules, men of status and education are allowed a higher classification; and in this case this was not done.

**The Honourable Sir Francis Mudie:** The position is that with regard to those put in class "C" the decision rests with the magistrate. If a person does not like his classification he can appeal or apply to a higher authority. In this case no such application was made.

**Mr. Sri Prakasa:** Is it not the duty of the Magistrate also to make a suitable classification and is it always necessary to leave it to the prisoner himself?

**The Honourable Sir Francis Mudie:** Not always. In this case the magistrate decided on class "C".

**(b) WRITTEN ANSWERS**

**RESTRICTIONS ON SECURITY PRISONERS RELEASED FROM DELHI OR AJMER**

**606. \*Mr. Sri Prakasa:** Will the Honourable the Home Member be pleased to state:

(a) if it is a fact that almost all security prisoners released from Delhi or Ajmer have some sort of restrictions placed upon them;

(b) if the Local Administrations consult the Central Government or they have any instructions from the Central Government in this behalf; and

(c) if the orders of restriction are served on them after they are released, or if they are appraised of the fact in jail that they can be released only on certain conditions, and are given the option to accept the same or not?

**The Honourable Sir Francis Mudie:** (a) and (b). This is not the case as regards Ajmer. The policy to be followed in future in Delhi is under discussion with the Chief Commissioner.

(c) Restriction orders are served either at the time of release or shortly afterwards. There is no question of giving an option.

**IMPRISONMENT OF MR. SARAT CHANDRA BOSE AND LALA SHANKAR LAL**

**607. \*Mr. Sri Prakasa:** Will the Honourable the Home Member be pleased to state:

(a) the law under which Mr. Sarat Chandra Bose of Calcutta and Lala Shankar Lal of Delhi are imprisoned; and the place or places of their imprisonment;

(b) if any allowances are given to their families; and, if so, how much;

(c) if it is a fact that they have declined interviews with their relatives because of certain conditions having been imposed for such interviews; and

(d) the conditions imposed?

**The Honourable Sir Francis Mudie:** (a) Messrs. Sarat Chandra Bose and Shankar Lal are detained under Ordinance III of 1944 at Coonoor.

(b) An allowance of Rs. 1,000 p.m. is given to the family of Mr. Sarat Chandra Bose.

(c) In August 1944 Mr. Sarat Chandra Bose refused an interview with his relations. I have no information of any such refusal by Mr. Shankar Lal.

(d) Mr. Sarat Chandra Bose objected to the provision of the Security Prisoners Rules which lays down that visitors who came for interviews are liable to be searched.

**MANUFACTURE OF POWER ALCOHOL**

**608. \*Mr. T. T. Krishnamachari:** Will the Honourable Member for Planning and Development please state:

(a) what progress has been made in the matter of encouraging the manufacture of power alcohol in India since the answer to the questions put during the Assembly Session of November, 1944;

(b) whether the Government of India have consulted the Provincial Governments in the matter;

(c) whether there had been any Conference between the Government of India and/or Provincial Governments and the prospective Indian distillers;

(d) whether Government were aware that the United Provinces Government recently summoned a Conference of distillers at Lucknow;

(e) whether the Government of India were aware that the United Provinces Government asked the prospective distillers assembled at the Conference to consult Messrs. Lawless and Webb, two representatives in India of the Aluminium Plant and Vessel Manufacturing Company of London, in regard to the erection of power alcohol plants;

(f) whether the Government of India are aware that the United Provinces Government told the distillers that no licences will be issued for distillation unless their production was certified by the experts, namely Messrs. Lawless and Webb;

(g) whether the Government of India have any information in regard to Messrs. Lawless and Webb, their credentials and the expert knowledge they possess;

(h) whether the Government of India are aware that Mr. Moss of the Indian Civil Service in the United Provinces is interesting himself greatly in the matter of pushing the plants sponsored by Messrs. Lawless and Webb; and

(i) whether the Government of India propose to scrutinise the applications for licences for erecting power alcohol plants backed by the Provincial Governments?

**The Honourable Sir Ardeshir Dalal:** (a) and (b). A discussion has been held with representatives of Provincial Governments and the Government of India have constituted a panel to report on the development of the Power Alcohol Industry, in the country.

(c) There has been no conference between the Government of India and prospective Indian distillers. Government have no information whether any Provincial Government has held such a conference.

(d) to (f) and (h). Government have no information.

(g) Both are members of the Aluminium Plant and Vessel Co. in the United Kingdom and are reported to have expert knowledge of the Power Alcohol Industry.

(i) The question of the licensing of industry by the Centre is under consideration.

#### PROPAGANDA ABOUT INDIA CARRIED ON IN AMERICA BY BRITISH AND INDIAN GOVERNMENTS

**609. \*Mr. K. S. Gupta:** (a) Will the Honourable Member for Information and Broadcasting please state whether it is not a fact that copies of "Mother India" are still distributed free in America by the British Information Service which is under the direct Supervision of Lord Halifax, *ex-Viceroy* of India?

(b) Is it not a fact that the office of the Agent General in America became the centre of guidance on anti-Indian propaganda to the various British publicity agents?

(c) Is it not a fact that such guidance notes and data are usually supplied by the Secretary of State for India, the Home Secretary of the Government of India and the Information Officer in the India Office in London?

(d) Is it not a fact that cocktail parties and tea parties are specially arranged in honour of anti-Indian propagandists of the British Information Service at the British Embassy in America?

(e) Is it not a fact that an anti-Indian editorial in the well-known paper *The Nation* was reprinted and widely circulated by Sir Girja Shankar Bajpai's office in Washington? Does he require a sanction from the Government of India to do so? If so, has he obtained it in this special case?

**Mr. G. S. Bozman:** (a) British Information Service have never distributed "Mother India"; nor encouraged its distribution in any way.

(b) No.

(c) Does not arise.

(d) No.

(e) No. The editorial in question, which was a factual appraisal of the then existing situation in India by a journal well-known for its liberal attitude and sympathy with nationalist aspirations, was sent to certain British officials and a few Americans in June 1943. This did not require the sanction of the Government of India. The last part of the question does not arise.

#### PROPAGANDA ABOUT INDIA CARRIED ON IN AMERICA BY BRITISH AND INDIAN GOVERNMENTS

**610. \*Mr. K. S. Gupta:** (a) Will the Honourable Member for Information and Broadcasting please state if it is not a fact that there were about 10,000 British propagandists in the United States who were devoting their time exclusively to India? If so, how many of them are (i) officials and (ii) non-officials?

(b) Are the Government of India aware of a thousand or more of "Beaver-brooks Bright Boys" who actively carry on anti-Indian propaganda?

(c) What is the subsidy or remuneration paid from the Indian exchequer to this particular class mentioned in part (b)?

(d) How many American missionaries received in India *Kaisar-i-Hind* medals and such other favours during the period ranging from 1930 to 1940?

(e) How many of those favoured have become the paid agents of the Government of India and His Majesty's Government to carry on an anti-Indian propaganda since 1930 up-to-date?

**Mr. G. S. Bozman:** (a) The answer to the first part is in the negative. The second part does not arise.

(b) No.

(c) None.

(d) and (e). Government do not propose to collect the information as the time and labour involved would not be justifiable. No such people are paid by the Government of India or, so far as I am aware, by H. M. G., to carry on anti-Indian propaganda.

## PUBLICATION "INDIA AGAINST THE STORM".

**611. \*Mr. K. S. Gupta:** (a) Is the Honourable Member for Information and Broadcasting aware of the publication 'India against the Storm' in America?

(b) Who is the author?

(c) Was he honoured by any Indian University with a "doctorate"? What is the name of the Indian University which conferred the "doctorate" on him?

(d) Are the Government of India aware of the fact that prepared reviews of the book were sent by the British Information Service to various newspapers and the book was also distributed free all over America? Is it at the cost of Indian exchequer? If so, what is the amount contributed in this direction?

**Mr. G. S. Bozman:** (a) Yes.

(b) The book is written by a certain Mr. Post Wheeler.

(c) My information is that a degree was conferred on him by the Osmania University.

(d) The Government of India have no information on the first part of the question. No sums were expended by the Indian Exchequer for this purpose.

## POSTPONED STARRED QUESTIONS AND ANSWERS

## WRITTEN ANSWERS

(Postponed from 14th February, 1945)

## INDIA'S PARTICIPATION IN INTERNATIONAL MONETARY STABILISATION FUND AND INTERNATIONAL BANK

**243. \*Mr. T. T. Krishnamachari:** Will the Honourable the Finance Member please state:

(a) whether the Government of India propose to formulate their policy in regard to India's participation in an International Monetary Stabilisation Fund and an International Bank; and

(b) whether the Legislature will have an opportunity of discussing the conclusions arrived at, at the Bretton-Woods Conference at an early date and also have the privilege of hearing the Government of India's views thereon?

**The Honourable Sir Jeremy Raisman:** I would refer the Honourable Member to the reply which I gave on the 14th February 1945, to Mr. Chettiar's starred question No. 197.

## POSSIBILITIES OF INDIAN INTERESTS SECURING DOLLAR CREDIT

**244. \*Mr. T. T. Krishnamachari:** (a) Has the attention of the Honourable the Finance Member been drawn to a speech by Mr. Trevor, Deputy Governor of the Reserve Bank of India, towards the end of December, 1944, in Lahore, wherein he has stated that the possibilities of Indian interests securing dollar credit in the future are bright?

(b) Is it actually so?

(c) Has there been a large increase in the Empire Dollar Pool and with it India's dollar position as well?

**The Honourable Sir Jeremy Raisman:** (a) No, unless the Honourable Member is referring to the newspaper report of certain questions answered by Mr. Trevor at an informal gathering of University students in Lahore at the end of November. Mr. Trevor did not on that occasion refer to the question of Indians securing dollar credits abroad.

(b) I have no information.

(c) No.

## DELEGATION FOR DISCUSSING LIQUIDATION OF INDIA'S STERLING BALANCES

**245. \*Mr. T. T. Krishnamachari:** Will the Honourable the Finance Member please state:

(a) whether the Government of India contemplate sending a delegation to U. K. in order to discuss the question of liquidation of sterling balances with His Majesty's Government;

(b) if so, when the delegation is likely to leave; and

(c) whether Indian non-official interests will be associated with this delegation?

- The Honourable Sir Jeremy Raisman:** (a) The answer is in the affirmative.  
 (b) No date has yet been fixed.  
 (c) The composition of the delegation has not yet been decided, but the Government of India are fully aware of the desirability of including non-official elements in any delegation that may be sent for the purpose.

### UNSTARRED QUESTIONS AND ANSWERS.

#### BROADCASTING RECEIVING LICENCES CURRENT AT CERTAIN TOWNS

**26. Mr. Lalchand Navalrai:** Will the Honourable Member for Information and Broadcasting be pleased to state:

(a) the total number of broadcasting receiving licences current at the following cities and towns on the 1st January, 1945:—

(i) Peshawar, (ii) Lahore, (iii) Patna, (iv) Karachi, (v) Trichinopoly; and (vi) Larkana (Sind); and

(b) what would be the normal range of a medium wave radio station of 25 KWT, during (i) midday, and (ii) nights after 8 P.M.?

**Mr. G. S. Bozman:** (a) (i) 1,982; (ii) 8,514; (iii) 1,047; (iv) 4,556; (v) 1,263; (vi) 171.

(b) The reliable range of a 0.25 kw. transmitter during day and night is about 15 miles, although after 8 P.M. it can be heard at much greater distances depending upon transmission conditions which vary from season to season.

#### HOME DEPARTMENT MEMORANDUM RE PROMOTIONS ON SENIORITY OR MERIT

**27. Mr. Lalchand Navalrai:** Will the Honourable the Home Member be pleased to state whether it is a fact that the Home Department issued an Office Memorandum on the 4th September, 1936, on the subject of promotions on seniority or merit? If so, will the Honourable Member be pleased to lay a copy thereof on the table of the House?

**The Honourable Sir Francis Mudie:** The Honourable Member presumably refers to the Home Department Office Memorandum No. 23/1/39-Esta.(S), dated the 4th September, 1942 (and not 1936). If so, a copy thereof was laid on the table of the House on the 8th November, 1944, in reply to his question No. 160.

#### POSTS OF HEAD ASSISTANTS, ETC., IN INCOME-TAX DEPARTMENT

**28. Sardar Mangal Singh:** Will the Honourable the Finance Member be pleased to state:

(a) the designations and scales of pay carried by different posts of Head Assistants and above in the Income-Tax Department all over India;

(b) the total number of sanctioned posts, (i) permanent, and (ii) temporary, in each grade of pay; and

(c) the number and designations of Sikhs employed in the Department as per above?

**The Honourable Sir Jeremy Raisman:** (a) to (c). Much of this information should be available to the Honourable Member in the Pay Schedules of the Central Subordinate Services, the Pay and Cadre Schedules of the Central Services and in the Establishment Lists of the different Income-tax Departments. I am sorry that the information asked for is not readily available and its collection would involve an amount of time and labour that would not be justifiable in war time.

#### POSTS OF ASSISTANTS, ETC., IN PLANNING AND DEVELOPMENT DEPARTMENT

**29. Sardar Mangal Singh:** Will the Honourable Member for Planning and Development be pleased to state:

(a) the designations and the scales of pay carried by different posts of Assistants and above in all the offices under his Department;

(b) the total number of sanctioned posts (i) permanent, and (ii) temporary in each grade of pay; and

(c) the number and designations of Sikhs employed in the various offices?

The Honourable Sir Ardeshir Dalal: (a), (b) and (c). I lay a statement on the table of the House.

*Statement*  
PLANNING AND DEVELOPMENT DEPARTMENT  
(i) Secretariat

Designation and scale of the post 1	Total No. of posts sanctioned 2	No. of Sikhs employed 3	Remarks 4
<i>Assistant</i>			
200—15—500 Old . . . . .	} 16*		All posts are temporary.
140—10—310—15—400 New . . . . .			
100—10—200 Unified . . . . .			
<i>Assistant-in-Charge</i>			
Pay of Assistant plus Rs. 40 special pay.	3	1	"
<i>Superintendents</i>			
Rs. 600—40—800 Old . . . . .	} 2	..	"
Rs. 500—20—600 New . . . . .			
<i>Assistant Secretary</i>			
Rs. 1,000—50—1,250	2	..	"
<i>Under Secretary</i>			
Rs. 600—50—1,000 plus Rs. 300 special pay.	1		"
<i>Adviser on Mineral Development</i>			
Rs. 2,000 . . . . .	1	..	"
<i>Deputy Secretary</i>			
Senior scale of I.C.S., plus Rs. 400 special pay.	2		"
<i>Economist</i>			
Rs. 2,500 . . . . .	1		"
<i>Joint Secretary</i>			
Rs. 3,000 . . . . .	1		"
<i>Secretary</i>			
Rs. 4,000 . . . . .	1	..	"
(ii) Office of the Industrial Adviser			
<i>Assistant</i>			
Rs. 120—8—200—10—350 Old . . . . .	} 5		"
Rs. 140—10—310—15—400 New . . . . .			
<i>Superintendent</i>			
Rs. 400—20—500 . . . . .	1		"
<i>Investigators</i>			
Rs. 200—20—400 . . . . .	2		"
<i>Research Officer</i>			
Rs. 350—50—700 . . . . .	1	..	"
<i>Assistant Industrial Adviser</i>			
Rs. 600—50—900 . . . . .	4†	..	"
<i>Deputy Industrial Adviser</i>			
Rs. 1,200—50—1,500 . . . . .	5†		"
<i>Assistant to Industrial Adviser</i>			
Rs. 1,000—50—1,250 . . . . .	1		"
<i>Industrial Adviser</i>			
Rs. 3,750 . . . . .	1	..	"

\*Includes 3 vacant posts.

†Includes 2 vacant posts.

## OFFICER CLASS CIVILIAN POSTS IN WAR DEPARTMENT

**30. Sardar Mangal Singh:** Will the War Secretary be pleased to state:

(a) the designations and scales of pay carried by different officer class civilian posts in the War Department;

(b) the total number of sanctioned posts (i) permanent, and (ii) temporary in each of these grades of pay; and

(c) the number and designations of Sikhs employed in the Department as above?

**Mr. C. M. Trivedi:** (a) and (b). I lay a statement on the table.

(c) Nil.

*Statement showing the Designations and Scales of Pay carried by different Officer Class Civilian Posts in the War Department, and the total number of sanctioned Posts (i) Permanent, and (ii) Temporary, in each of these grades of pay*

Designation of posts	Scale of pay	Permanent	Temporary
Secretary	Rs. 4,000 (fixed)	1	
Additional Secretary	Rs. 3,500 (fixed)		1
Joint Secretary	Rs. 3,000 (fixed)		1
Deputy Secretary	I. C. S. scale pay, plus Rs. 400 (Special pay).	1	4
Under Secretary	(i) I. C. S. scale pay, plus Rs. 150 (Senior Scale) or Rs. 300 (Junior Scale)	1	
	(ii) U. P. (Judicial) Service scale pay, plus Rs. 300.	1	1
	(iii) Assistant Secretary's scale pay, plus, Rs. 50.		1
	(iv) Rs. 750—25—900.		1
(In addition there are four sanctioned posts of Under Secretary now lying vacant. The grade of pay for each of these posts will depend on the previous status of the persons who may be appointed eventually).			
Assistant Secretary	Rs. 1,000—50—1,250	2	7
Chief Administrative Officer	I. C. S. scale pay, plus Rs. 400 (Special pay).		1
Administrative Officer (Assistant Secretary).	Rs. 1,000—50—1,250		6
Assistant Quartering Officer	Rs. 1,150—50—1,250		1
Officer Supervisor	Rs. 900—50—1,150		9
		6	37

## SCALES OF PAY FOR VICEROY'S COMMISSIONED OFFICERS

**31. Sardar Mangal Singh:** Will the War Secretary be pleased to state:

(a) the scales of pay by ranks for Viceroy's Commissioned Officers in the Indian Army, Navy and Air Force; and

(b) the total number of Indians and Sikhs in each of the Forces by rank?

**Mr. C. M. Trivedi:** (a) There are no Viceroy's Commissioned Officers in the Royal Indian Navy and the Indian Air Force. As regards the Indian Army, the scales of pay by rank are as follows:

Risaldar Major/Subedar Major  
Risaldar/Subedar  
Jemadar

Rs. p. m.  
\*250—15—310 \*Includes  
140—10—180 personal  
50—5—105 allowance  
at Rs. 50 p.m.

(b) I regret that in the interests of security I am unable to give actual numbers. I lay on the table a statement giving the percentages of (a) Indians as a whole, (b) Sikhs, in the various ranks in the Royal Indian Navy and the

Indian Air Force. As regards the Indian Army no statistics are available showing the percentages of the various communities, or of officers in each different rank. Indians form 26 per cent. of the total number of officers and 91 per cent. of the total number of Viceroy's Commissioned Officers, other ranks and enrolled non-combatants. The corresponding percentages for Sikhs are officers, 3.5, and the rest, 6.5. The percentage of Indians in each rank of the total cadre of Viceroy's Commissioned Officers and other ranks is approximately as follows:

Rank	Percentage
Subedar Major . . . . .	0.1
Subedar . . . . .	0.6
Jemadar . . . . .	1.0
Havildar Major . . . . .	0.9
Havildar . . . . .	8.9
Lance Havildar . . . . .	0.7
Naik . . . . .	3.8
Lance Naik . . . . .	4.0
Sepoy . . . . .	55.0
Non-combatants (enrolled) . . . . .	18.0

Statement showing the percentages of (a) Indians as a whole, (b) Sikhs in the various ranks of the Indian Air Force and the Royal Indian Navy

## (1) INDIAN AIR FORCE

	Indians %	Sikhs %
<b>(i) Officers</b>		
Wing Commanders . . . . .	0.4	0.1
Squadron Leaders . . . . .	2.4	0.3
Flight Lieutenants . . . . .	13.2	1.5
Flying Officers . . . . .	53.6	6.0
Pilot Officers . . . . .	20.5	2.2
Acting Pilot Officers . . . . .	9.9	0.8
	<hr/> 100.0	<hr/> 10.7
<b>(ii) Airmen</b>		
Warrant Officers . . . . .	0.1	0.03
Flight Sergeants . . . . .	0.4	0.07
Sergeants . . . . .	1.2	0.12
Corporals . . . . .	1.9	0.13
Aircraftsmen . . . . .	96.4	6.00
	<hr/> 100.0	<hr/> 6.24

## (2) ROYAL INDIAN NAVY

<b>(i) Officers</b>		
Commanders . . . . .	2.0	Nil
Lieutenant Commanders . . . . .	14.2	1.0
Lieutenants . . . . .	41.3	1.3
Sub-lieutenants . . . . .	65.9	2.4
Midshipmen . . . . .	75.6	3.1
<b>(ii) Rates</b>		
Chief Petty Officers . . . . .	2.6	0.02
Petty Officers . . . . .	8.85	0.08
Leading . . . . .	9.95	0.18
Below Leading . . . . .	73.8	0.70
Boys . . . . .	4.8	0.13
	<hr/> 100.0	<hr/> 1.11

**RESTRICTING GOVERNMENT ADVERTISEMENTS TO ACCREDITATION (A)  
NEWSPAPERS**

**32. Mr. Ananga Mohan Dam:** Will the Honourable Member for Information and Broadcasting please state if it is a fact that advertisements are given by the Central and Provincial Governments to those newspapers only whose correspondents are given accreditation and grouped in A Class, and not to those newspapers whose accredited correspondents are grouped in B Class? If not, what is the fact?

**Mr. G. S. Bozman:** No, Sir. As I stated in this House on the 5th April, 1944, in reply to Mr. K. S. Gupta's starred question No. 786, advertisements are given to newspapers in accordance with their importance from a commercial viewpoint, ordinarily judged from their circulation, the quality of news and other reading matter, and the type of readership.

**REVISION IN THE DIVISION OF ACCREDITED PRESS CORRESPONDENTS**

**33. Mr. Ananga Mohan Dam:** Will the Honourable Member for Information and Broadcasting please refer to the reply given to unstarred question No. 46, asked on the 8th November, 1944 (page 427 of the Debates), regarding revision in the division of Accredited Press Correspondents, viz.:—

“The matter is under consideration”, and state the result or the approximate date by which the said result will be available?

**Mr. G. S. Bozman:** The list of accredited press correspondents entitled to categories 'A' and 'B' privileges has been revised. A copy of the list as revised has been placed in the Library.

**LIST OF ACCREDITED PRESS CORRESPONDENTS**

**34. Mr. Badri Dutt Pande:** Will the Honourable Member for Information and Broadcasting please state whether it is proposed to lay on the table an up to date list of Accredited Press Correspondents with the Government of India showing them grouped into two classes along with the names of the newspapers or news-agencies which they represent and the date on which they were given accreditation?

**Mr. G. S. Bozman:** A list giving the required information has been placed in the Library.

**PREDOMINATION OF THE PRESS ASSOCIATION IN THE PRESS CORRESPONDENT  
ADVISORY COMMITTEE**

**35. Mr. Badri Dutt Pande:** Will the Honourable Member for Information and Broadcasting please state:

(a) If it is a fact that the members of the Press Association have predominated the Press Correspondent Advisory Committee; if not, what the fact is;

(b) if it is a fact that the Press Association is a body not registered under any law and has a non-statutory establishment and receives a subsidy from the Government; if not, what the fact is, and how its accounts stand;

(c) the number together with the result of applications from newspapers or news-agency representatives for accreditation to the Government of India decided by the Sub-Committee; and

(d) if it is a fact that the new accreditation was also divided amongst the members of the said Press Association; if not so, what the fact is?

**Mr. G. S. Bozman:** (a) The required information was given in this House on 5th April, 1944 in my reply to part (c) of Mr. Ananga Mohan Dam's question No. 815, to which I would invite the Honourable Member's attention.

(b) The Press Association is not a registered body. It receives no subsidy from Government who have no information regarding its income and expenditure.

(c) 16 applications were received. Of these, 14 were accepted and 2 rejected.

(d) I am afraid I do not understand this part of the question. If the Honourable Member means that accreditation either in category A or category B is

accorded to those correspondents only who are members of the Press Association the reply is: 'No. Each case is considered on its own merits'.

#### CRIMES REGISTERED IN DELHI CITY POLICE STATIONS

**36. Mr. Badri Dutt Pande:** Will the Honourable the Home Member please lay on the table of the House a statement of the crimes registered in the Delhi City Police Stations during the preceding three years together with the results of investigations made thereon by the Police?

**The Honourable Sir Francis Mudie:** A statement is attached.

Year	Statement									
	Registered	Sent for trial	Convicted	Acquitted	Pending investigation at end of year	Cancelled	Untraced	Sent for trial (excluding persons pending trial)	Convicted	Acquitted
1942	2,402	879	711	168	415	129	979	2,121	1,537	584
1943	3,608	1,362	1,114	248	708	154	1,384	2,532	1,936	596
1944	3,521	1,095	895	200	1,114	198	1,114	1,937	1,529	408

The above figures are for the City police stations only, including Qarol Bagh.

#### INCREASE IN CRIMES IN DELHI CITY

**37. Mr. Badri Dutt Pande:** Will the Honourable the Home Member please state the reasons for the increase in crimes in the Delhi City during the preceding three years?

**The Honourable Sir Francis Mudie:** The main reason for the increase in crime is the extraordinary increase of population.

#### SHORT NOTICE QUESTION AND ANSWER

##### PARTICIPATION BY INDIA'S AGENT GENERAL IN PROPAGANDA ABOUT INDIA IN AMERICA

**Mr. T. S. Avinashilingam Chettiar:** Will the Foreign Secretary please state:

(a) whether his attention has been drawn to Mr. Amery's answer in the Commons that 'both Indian Agent General and the B. I. S. will take whatever steps they judge necessary to deal with the matter' *ie.*, the statements made by Mrs. Pandit in America;

(b) whether the Secretary, External Affairs, has not repeatedly said that the Agent General takes no part in any political propaganda; and

(c) if so whether he has protested to the Secretary of State against the Indian Agent General being used for propaganda purposes?

**Sir Olaf Caroe:** (a) Yes, but the Honourable Member has failed to quote the whole of what the Secretary of State is reported to have said. He added in effect that the Agent General and the B. I. S. would take into account such assessment as the American Government might already have made of Mrs. Pandit's inaccurate assertions.

(b) I did not make the statement attributed to me by the Honourable Member in answer to previous questions in this House. The trend of my answers to questions on this subject was that all the printed publicity issued by the Agent General was based on material sent from India and published in this country. This of course does not imply that it is not perfectly open to him to state correct facts and dispel false impressions on any issue, whenever he judges it to be necessary. It is in fact on occasion his duty to do so.

(c) Does not arise.

**Mr. T. S. Avinashilingam Chettiar:** Will the Honourable Member please state what is the machinery which the Agent General has at his disposal to "state the correct facts"?

**Sir Olaf Caroe:** He can make a speech, he can issue a statement, he can do anything which is open to a diplomatic representative to do. He can also work through the Indian Information Service.

**Mr. T. S. Avinashilingam Chettiar:** May I know whether the Agent General is publishing any books or is financing magazines or doing anything of that sort to state the correct facts?

**Sir Olaf Caroe:** I have never heard of the Agent General publishing any books: I do not know whether the Honourable Member has.

**Mr. T. S. Avinashilingam Chettiar:** Is there any machinery by which he can publish books?

**Sir Olaf Caroe:** He can work through the Indian Information Service and put out publicity material. But, as I have often said in this House and as the Honourable the Leader of the House has also said, what he sends out through the Indian Information Service in the way of printed propaganda is what has already come out in India.

**Mr. T. S. Avinashilingam Chettiar:** Is he in touch with the British Government in putting out such literature?

(No answer was given.)

### MOTION FOR ADJOURNMENT

#### FAILURE TO COUNTERACT ANTI-INDIAN PROPAGANDA IN BRITAIN AND AMERICA

**Mr. President** (The Honourable Sir Abdur Rahim): I have received a notice from Mr. Kazmi saying that he intends to move a motion for the adjournment of the House to discuss the failure of the Government of India to counteract the filthy and dastardly propaganda carried on against Indians in the United Kingdom and the United States of America as disclosed by Sir Bhatnagar, Director of Scientific and Industrial Research, Government of India, in his address to the All-India Manufacturers' Organisation, and reported in the *Amrita Bazar Patrika*, dated the 27th February, page 5.

This is not an urgent matter within the meaning of the Rules and Standing Orders and I therefore disallow the motion.

#### THE HINDU MARRIAGE DISABILITIES REMOVAL BILL—*contd.*

**Mr. M. Ananthasayanam Ayyangar** (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, the other day I was referring to the second part of the Bill, which seeks to validate inter-sub-caste marriages. I have already drawn the attention of the House to the fact that sub-caste marriages are not illegal. No shastra has ever laid down that sub-caste marriages are invalid under the Hindu Law. No decision of any court has till now laid down that such sub-caste marriages are invalid. Therefore this attempt to introduce a measure of this character in this Assembly for the purpose of validating such sub-caste marriages, as though they had been invalid till now, is absolutely unnecessary and superfluous.

I shall quote the authority of Mr. Gopalchandra Sarkar Sastri in his latest edition of Hindu Law, the edition which was published in 1940. At page 122 the learned author says, "There is no text of Hindu Law prohibiting inter-marriage of persons belonging to different sub-divisions of the same tribe or varna. In the Madras case, *Inderun vs. Ramaswami*, the Privy Council has upheld the inter-marriage between two sub-divisions of the same caste". Again, later on, he has said, "It has, however, been clearly laid down that such inter-marriage is valid". Therefore there is absolutely no prohibition against inter-marriage between sub-divisions of the same caste.

My Honourable friend, who has moved the Bill, has chosen the wrong remedy and has come to a wrong place. He has misconceived his remedy. As a matter of fact he has tried to cover up his indifference as a reformer outside the Assembly by his lectures here, inside this Assembly. His legitimate place is outside the Assembly. Let him go and tell persons who are reformers like himself and let them all go to the country at large and tell them that there is absolutely no prohibition in the shastras against marriages between members -

belonging to different sub-castes of the same caste. Let him not be an arm-chair reformer.

**Mr. Govind V. Deshmukh** (Nagpur Division: Non-Muhammadan): I am a fighting reformer.

**Mr. M. Ananthasayanam Ayyangar**: No, a cushion-chair reformer.

**Dr. G. V. Deshmukh** (Bombay City: Non-Muhammadan Urban): Why don't you do it?

**Mr. M. Ananthasayanam Ayyangar**: I do so and I have always said both in my individual capacity as also in my capacity as a vskil, to which profession I belong, that there is absolutely no bar and no invalidity attaching to any marriage between one member of a sub-caste and a member of another sub-caste. I have always said it and shall always do it. I cannot have better authority than the words of our ancient Rishis and the Smrities and therefore anything more is unnecessary. Conservatism is not peculiar to my country nor to the Hindu faith. Conservatism has a hold on people's minds everywhere. Only a few days ago I saw a picture called, "English without Tears"; where the grand-daughter of a nobleman wanted to marry one of the servants of the household. The grandmother was shocked to hear it, she almost fainted, she swooned, that is what we find; if it is not caste or sub-caste it is class and sub-class that reigns supreme in European society. My friend Mr. Chapman-Mortimer wants to sit in a Committee to decide my fate so far as my religion is concerned. He will do well to withdraw. My Honourable friend Mr. Dalal has withdrawn so graciously. He has not got into the net which has been so beautifully spread by the twin brothers.

**Dr. G. V. Deshmukh**: Mr. Dalal wanted to be on the Committee and then he has withdrawn.

**Mr. M. Ananthasayanam Ayyangar**: His better part has prevailed over him.

**An Honourable Member**: His better half has prevailed over him.

**Mr. M. Ananthasayanam Ayyangar**: Now let me come to the ordinary Christians. I know, the practice among Roman Catholics, suppose a Brahmin becomes a Christian, or a Vaishya becomes a Christian, or a non-Brahmin becomes a Christian, he continues his caste instead of belonging to the Christian community. Brahmin Christians marry only Brahmin Christians, Vaishya Christians marry only Vaishya Christians, and so on. They carry their caste to the end of the world and they will not intermarry. Is there any prohibition among Christians against such marriages, does the Christian Marriage Act invalidate such marriages? You may pass legislation to bring about unions like that, but if they refuse to marry can we force them? Let my Honourable friend go immediately to Trichinopoly and try to convert them. Here the Vice-Chancellor, I do not find him in his seat,—wanted to bring about a marriage.

**Sir Muhammad Yamin Khan** (Agra Division: Muhammadan Rural): Vice-Chancellor of what?

**Mr. M. Ananthasayanam Ayyangar**: He is the Vice-Chancellor of Agra University. He went out of the way, and honestly—I do not attribute any other motive to him—wanted to bring about a marriage between a girl and a boy, which marriage according to Hindu Shastras is prohibited. He wanted to introduce a reform in Hindu Law. I wish to ask the Honourable Member whether, if that girl had wanted to marry her brother's son, he would have been a party to it? Are there not prohibited degrees of marriage in every community and everywhere, and because there is a greater degree of prohibition in my community, is it open to an Egyptian to come and tell me that because among Ptolemys of Egypt, brothers married sisters, my children, brothers and sisters, should marry among themselves? Is he prepared to let a brother and sister marry in his community? I ask the Vice-Chancellor to confine himself to the limits of the University and not come to this Assembly and preach to me. I am proud of my Hindu law, practice and religion and I will invite my Muslim friends and Christians who really belonged to my community to come back to my religion. I wish to try and carry conviction to them. Let them not forget their ancestors. My Honourable friend Sir Yamin Khan has perhaps come from the same Gotra to which I belong. All our friends come from our Gotras.

[Mr. M. Ananthasayanam Ayyangar.]

You are not Semitics or anybody else, you are all Aryans. We all belong to the same race. If we take some other faith, we do not change our race. If a Negro or an Assyrian embraces Islam he does not become an Arab. Equally, if I change my religion, do I become anything different from my brother who continues to be a Hindu? So far as marriages are concerned, it is a question of consanguinity, affinity, it is not a question of whether sub-caste marriages are allowed or are not allowed. It is a matter of conservatism. Where subdivisions by birth do not stand in the way of marriage in a country, property, wealth, and other considerations stand in the way. The greatest reformers of the West want to destroy the present society of class dominance, so that ultimately they may establish a classless society. That is how your politics are going on there. The reformers must go to the people and preach. One word of caution I would give to my Honourable friends, the twin brothers; if they want to go and tell the people I want to carry this reform amongst you, they must put on *vibhuti*, they must become orthodox men. Have you not seen members of the Salvation Army addressing people like this? They wear a *dhoti* and preach. My Honourable friend for whom we have got the greatest respect, she is not an ardent reformer, but she is a reformer in herself, I am referring to my friend Mrs. Subbarayan—I will call her Mrs. Radha Bai because in these days of women's rights, why should we attach her to Mr. Subbarayan.

**An Honourable Member:** Srimati Radha Bai.

**Mr. M. Ananthasayanam Ayyangar:** Even she does not go into the country. Mahatma Gandhi himself has changed his dress. He was accustomed to foreign dress, foreign language, he has now changed his language, he wears only a loin cloth, and anybody who does not know him will take him for a villager. That is how he commands the respect of the millions of this country. That is a social reformer, although a politician he has carried social reform to the very doors of the people. I must say, Sir, I belong to a very orthodox family and community, I will multiply this 'very' to the Nth degree, I belong to the Ramanuja School, but still I have changed, and that is what Mahatma Gandhi has done. That is the way of the reformer. My Honourable friend, Mrs. Renuka Ray was quoting from a book published by Raja Ram Mohun Roy. Raja Ram Mohun Roy is a great soul, he is a great reformer, I am justly proud of him; I only want that Mrs. Renuka Ray should follow his footsteps. This is how he carried reform into the community. He first addressed himself to some of the overgrowths on the Hindu community. He addressed himself to Sati, which does not form part of Hindu precept or ritual, I do not know how it came into being, possibly it was copied from the Assyrians or Sumerians or the Babylonians or even Egyptians. In Egypt when the king died, all his retinue must also be buried with him, so that he may have his retinue, his wife with him in the other world. There is no authority for it in the Vedas, there is no authority for it in the Ramayana. Dasaratha had 350 wives, but not one of them ascended the pyre with him. Somehow this practice crept into the Society, and that practice was rightly abolished with the aid of legislation. Raja Ram Mohun Roy did service to our community, he knew the various bad things which had crept into the community, and which unfortunately unthinking minds were prepared to accept. That is the reform he did. He tried to weed out the ingrowths and overgrowths.

Next let me come to the Widow Marriage Act. Widow marriage is permitted by later Smrithis, and there is no prohibition of it in the earlier Smrithis. Here I refer to a passage which means that, when a man is lost or goes away to foreign parts and it is not easy to get at him and when he is dead or when he becomes an ascetic, or when he becomes an outcaste and when he becomes a eunuch

**Dr. G. V. Deshmukh:** Then where is the divorce?

**Mr. M. Ananthasayanam Ayyangar:** I will come to that chapter: fortunately you have not introduced it in this Bill.

**Mr. President** (The Honourable Sir Abdur Rahim): Will the Honourable Member confine himself to this Bill?

**Mr. M. Ananthasayanam Ayyangar:** My friend wants to drag me into other matters. Therefore I say there is nothing absolutely in Hindu law to prohibit widow re-marriage also. Circumstances later on made it necessary to prohibit it. Can anybody say that *purda* is a necessary element of the Muhammadan religion and that those who have discarded *purda* are bad? There is absolutely nothing of the sort. But in human nature there cannot be a revolution—there can only be evolution, and therefore practices creep in which have to be thrown out. It cannot be done merely by forcibly removing the *purda* if a lady goes about wearing one,—she will resent it—but by telling her and educating her and getting her to remove it. Therefore I request my friends immediately to change their dress and wear a *dhoti* and put on *vibhuti* and go into society . . .

**Mr. President** (The Honourable Sir Abdur Rahim): I do not think the Honourable Member need indulge in these personal remarks.

**Mr. M. Ananthasayanam Ayyangar:** Let the reform be carried out in this fashion. This is not the place for such reform. And there is no need for reform in this matter—it is not necessary.

Now, let me come to the first part of this Bill, which relates to *sagotra* marriage. I have already said what a *gotra* is: *gotra* is the name of the rishi or the common ancestor, from whom a number of people have descended. The common ancestor might have been very remote—he need not be within 7 degrees. The number is not a blind one. It is based on principle. Marriage amongst members of the same *gotra* is prohibited on the principles of eugenics. So far as the Hindu community is concerned, they do not want in-breeding very closely; they do not want out-breeding either, that is, going beyond the particular caste. Inside the caste and outside the *gotra*—it is that that is wanted; and I am sure that it is that which has preserved this ancient community. What is the age of other communities? Americans—their age is 200 or 250 years—are now the dictators of civilisation: they say that you must wash your teeth every morning: my ancestors learnt to do this long long ago: they washed their teeth and bathed regularly, while others have learned this only recently and want us to have these practices now! Prohibited degrees are there in all laws.

**Mr. Bhulabhai J. Desai** (Bombay Northern Divisions: Non-Muhammadan Rural): But they are not in dispute in this Bill.

**Mr. M. Ananthasayanam Ayyangar:** *Sagotra* is a prohibited degree of marriage—not for 7 degrees but to the Nth degree. I will come now to the various systems, how this is in consonance with the accepted principles of every system of religion. I am aware of only one instance where a son married his mother in Greece—and no body accepts it, it is wrong and the man committed suicide later on.

**Dr. G. V. Deshmukh:** Oedipus, you mean: they did not know.

**Mr. M. Ananthasayanam Ayyangar:** None of us have got that complex. So far as brother and sister are concerned, it was the practice among the Ptolemys in Egypt, but even that was given up. Let me take the Muhammadan religion.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member had better confine himself to this Bill: that is quite enough. The discussion has been going on for a long time and many Members have already spoken. He must not wander into a discussion of other laws.

**Mr. M. Ananthasayanam Ayyangar:** Is not this relevant to the discussion, Sir?

**Mr. President** (The Honourable Sir Abdur Rahim): No; it is not.

**Mr. M. Ananthasayanam Ayyangar:** All right, Sir. It is wrong to say that a man shall not marry his mother or grandmother or great grandmother—and he cannot marry his daughter or granddaughter or great granddaughter . . .

**Mr. Bhulabhai J. Desai:** He will not be alive!

**Mr. M. Ananthasayanam Ayyangar:** A man can marry his granddaughter . . .

**Mr. Bhulabhai J. Desai:** Not to the Nth degree.

**Mr. M. Ananthasayanam Ayyangar:** Therefore it is prohibited. So far as his sisters are concerned, he is not allowed to marry his sisters. This can be

[Mr. M. Ananthasayanam Ayyangar.]

justified on the principles of blood relationship and consanguinity. Let me come to affinity. If a man marries a wife and the wife dies, he is not entitled to marry the mother-in-law in Muhammadan law. What is the principle of blood relationship or consanguinity involved in this? It is only affinity. My ancestors made a similar injunction and why should I not have great respect for them? Why do you laugh? Apart from affinity, even fosterage is considered as an objection for marriage under the Muhammadan law. This certainly cannot be justified on the principles of blood relationship. Therefore I do not merely oppose this measure on grounds of sentiment. I am prepared to cross swords with my friends on scientific principles. I believe science has not yet discovered that heredity does not continue beyond the 7th degree. They have been making researches and Mendel's law applies: with respect to animals they have found that qualities persist to the 7th degree: they have not yet discovered that they do not persist.

**Dr. G. V. Deshmukh:** Persist indefinitely—that is Mendel's law.

**Mr. M. Ananthasayanam Ayyangar:** I am glad of the correction. My friend quoted Darwin. Darwin examined a number of animals and so far as the human kingdom is concerned, Darwin's law has been thrown to the winds. It is unfortunate that Darwin's law still prevails in the West; war is the result of Darwin's law—the survival of the fittest—the law of the jungle. But we want to live harmoniously with the rest of the world. I recognise the oneness of the whole world and universe, that this is only a manifestation of that power, and therefore I would like to join hands with all. I go as far as possible to find out if there is kinship or consanguinity of blood and therefore I want to avoid it. It has been said that this legislation is not to use force but only enabling. Are you prepared to have enabling legislation permitting brother to marry sister? Why? We do not do that because we know it is improper that a sister should marry her brother, and I am not prepared to leave it to chance. I say it shall not. My desire to prohibit improper alliances is equally strong about this matter. Let the man make his research and find there is absolutely no trace of blood relationship between the common ancestor and the different persons belonging to the same community. And after all is said and done, how many sagotra marriages are performed? Is there a general cry in the community that if you bar sagotras there are no husbands for daughters and there are no wives for these boys? My Honourable friend Shrimati Radhabai said that it is because the circle is narrow that bridegroom prices are being asked. I say, with all respect, that the men are not to blame so much as the women. My Honourable friend should advise all mothers not to ask for bridegroom price. I know how the man usually answers when he is asked about this. He says: "What can I do? I know your difficulty, I have daughters myself. Therefore please ask my wife: she wants a small golden pot or a small beautiful necklace made of diamonds. That is all that she wants". Therefore this is not due to the narrowing circle of relations or marriageable people, but on account of the price which we have to pay for this English language which we have acquired at some cost; and we are converting into cash the knowledge of English that we have got; therefore this bridegroom price has come into existence. It is not only in the Hindu community but in all other communities that it has come: if you want to give a daughter to a man whom you consider good in his position, then the man puts a market value upon himself. I am afraid this has affected all communities, Christians and others; in some shape or other they have all got to pay, if they want good husbands for their daughters. This is independent of the sagotra marriage.

The prohibition of sagotra marriage is also intended to bring about purity of the race. Much care is taken to see how race horses are bred. The pedigree is calculated and efforts are made to find out who the parents are. The same practice obtains in the case of cows and stud bulls. The seed is more precious than the field. It is the proper seed that brings about the purity and the continuity of the race.

Have you ever heard of a white American man being lynched for having had anything to do with a Negro woman? No. Take the other case. When the Negro man approaches a white woman, he is lynched. So, Sir, the purity of the race depends upon the purity of the woman. Whatever my friends may say, marriage is a sacred institution. It is not intended merely to satisfy sexual pleasures of the individuals. That is purely incidental. There is an innate beauty about it.

Take the case of a man and a woman. They are beautiful and apparently there is nothing wrong with them. They are like beautiful potatoes. What happens? They beget children which develop patches of syphilis. There is nothing wrong with the parents and yet the offspring are affected.

I am not opposing this Bill for the sake of opposition. My father was a Sanskrit pandit. I am not opposed to reform. Nor do I believe that God has placed a full stop on all reform for all time to come. I belong to a religion which says, that as necessity arises, there will arise a prophet from time to time to teach mankind how to proceed. Therefore I am in process of evolution from time to time.

**Dr. G. V. Deshmukh:** That time has arrived now.

**Mr. M. Ananthasayanam Ayyangar:** I do not agree that Dr. Deshmukh is an *avatar*.

Now, sagotra marriage is prohibited by Manu in Chapter III of Manu's Code. He deals with the prohibited degrees of marriage and he also mentions the disqualifications of the bride and bridegroom who should not enter into the married state in the interests of proper progeny.

**Mr. Sri Prakasa** (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): He deals with many forms of marriage and many types of sons also.

**Mr. M. Ananthasayanam Ayyangar:** This is what it says: (This is in regard to families which should be avoided):

"The family which has omitted prescribed acts of religion; that which has produced no male children; that in which the Veda has not been read; that, which has thick hair on the body; and those, which have been subject to hæmorrhoids, to phthisis, to dyspepsia, to epilepsy, to leprosy and to elephantiasis."

These are the disqualifications which have been laid down. These were all prescribed in the interests of society. Sagotra marriages were forbidden because they will produce affinity of blood which may not be useful for the purpose of producing proper lineage.

I have received several opinions on this Bill. Inasmuch as my sisters here have spoken I would like to place before this House the opinions of those women who are against this Bill. I shall place before you the views of the Hindu Women's Association of Calcutta of which the President is Lady Sircar, wife of Sir N. N. Sircar who was Law Member of the Government of India and who was an Honourable Member of this Assembly. If she were a Member of this Assembly, she could give us a proper lead in this matter. My Honourable friend Mrs. Subbarayan did not refer to the opinion of this Association.

**Shrimati K. Radha Bai Subbarayan** (Madura and Ramanad *cum* Tinnevely: Non-Muhammadan Rural): On a point of personal explanation, Sir, I did refer to the views of women who opposed the Hindu Code.

**Mr. M. Ananthasayanam Ayyangar:** You did not say to what category they belonged, whether they were ordinary women or extraordinary women whose views are entitled to consideration. If my friend was in favour of one set of opinions, I tell this House there is another set of opinions equally strong which opposes this Bill. I shall read a few lines from the opinion set by Mrs. S. R. Chatterjee who is Honorary Secretary of the Hindu Women's Association, of which Lady Sircar is the President.

"If the sacramental marriage had been properly codified, perhaps not much harm would have been done—at least in the near future. Those impulsive or go-ahead young people who want to avoid the restrictions of the sacramental law, can well take advantage of Act III of 1872, as at present, or its counterpart, viz., the civil marriage rules provided by the draft Code. If so, what was the necessity of diluting the sacramental marriage with such un-Hindu ideas, as divorce, re-marriage of wives, sagotra marriage or marriage outside caste? We emphatically record our protest against the introduction of such heterodox principles into the Hindu law of marriage."

[Mr. M. Ananthasayanam Ayyangar.]

They oppose the very codification of Hindu law. This must be left to society as it progresses from time to time. Whenever such need arises and the society feels strongly that a change is urgently needed in the interests of the race, society will have no objection to adjust itself to changing times and new ideas. Under the Arya Marriages Act, the Arya Samajists brought about a number of marriages between persons belonging to different castes. There was a question of the validity of such marriages in the Nagpur High Court and other High Courts and the matter was brought up in this House by the Honourable Sir N. N. Sircar and this Assembly validated and legalised those marriages. If the community wants sagotra marriages this Assembly will certainly ratify the proposal but as it is there is only a solitary person here and there who is in favour of this proposal. Even where there is no objection, sub-caste marriages are not going on. I do not say that the Mover of the motion is not a Hindu. He may have crossed the bounds of religion but the ordinary people are still opposed to sagotra marriages and there is lot of opinion against such marriages.

I will answer one or two questions raised by my friend Dr. Deshmukh. He said that Rama and Sita belonged to the same gotra. I have looked into the Ramayan and I find that the position is that Satananda on one side gives the lineage of Sita and Vashista gives the lineage of Rama. There is nothing in common between the two. Therefore it is wrong to say that they belonged to the same gotra.

**Mr. Sri Prakasa:** What about Krishna?

**Mr. M. Ananthasayanam Ayyangar:** Krishna was born at Muttra. He married a lady in Vidharba. They do not belong to the same gotra.

**Dr. G. V. Deshmukh:** I referred to Krishna's parents, Vasudev and Devaki. My friend is distorting everything that I said.

**Mr. M. Ananthasayanam Ayyangar:** My Honourable friend forgets that even in his speech some Honourable Members interposed and he had to answer them. In the same way, I am answering my Honourable friend Mr. Sri Prakasa. I am informing him that Sri Krishna and Rukmini did not have the same gotra and so far as Devaki and Vasudeva are concerned, I do submit they did not belong to the same gotra. I shall refer to only one more instance of marriage, and that is the marriage between Arjuna and Subhadra. They were related to each other. Arjuna was paternal aunt's son to Subhadra; and Subhadra was maternal uncle's daughter to Arjuna. I submit they as husband and wife did not belong to the same gotra.

**An Honourable Member:** There is blood relationship.

**Mr. M. Ananthasayanam Ayyangar:** I am answering that point also. Why should you be in a hurry? My only excuse for taking a much longer time over this is that the Bill is of a far reaching character. Regarding the marriage between Arjuna and Subhadra, it is true that such marriages between maternal uncle's daughter and nephew do take place in Dravida country to which I belong. As society advances particular customs are developed in each part of the country. If the customs are bad and injurious to the harmonious growth of society, then such customs are weeded out, good customs have the sanction of law. So, I was submitting that such marriages between maternal uncle's daughter and nephew have the sanction of law based on custom in Dravida country. But such marriages are illegal in Bengal. They are considered incest in Bengal and all over northern India. But in the rest of India they are considered legal. What I am submitting is to allow customs to grow which are good for the soil. Do not try to implant one custom from one part of the country or from one community to another. India is a vast continent. We all of us belong to the same race and to the same Hindu religion. Yagnyavalka is the smriti text which is followed from one end of the country to another. In this country, this text has been differently interpreted by various people. One school in Bengal, another in Mithila and so on. Thus there are four schools. If a person from the South wants to marry to another person in the north, there is the Special Marriage Act, passed in 1923 which enables people to marry. He and she must both

belong to the Hindu religion. There is absolutely no difficulty. They ought not to be related to each other within the prohibited degree, that is two degrees. If they are beyond two degrees, they can marry. How many people have taken advantage of this Special Marriage Act? Very few. That only shows that society does not want to take advantage of that law. Why do you want to introduce another legislation. The one is a sacramental marriage and the other is a registered marriage. If people want sacramental marriage, let them have it. If some others want registered marriage, let them have it. Why do you want to duplicate laws? The Hindu Widows Remarriage Act was passed, but it was not universally adopted. Why don't you bring a legislation to make it compulsory? Such absurd measures won't appeal to Hindu society. Likewise, what is the good of emphasising something or trying to pass an Act similar to the one which has not been accepted by the community at all? Therefore, I submit that the first portion of this Bill is unnecessary and uncalled for, there is no demand for it in society. It is uncalled for and it is no reform at all. On the other hand science will prove sooner than later that it is inconvenient and injurious to healthy growth of society. Then, Sir, the second part is misconceived and the earlier part is unnecessary and therefore this Bill ought not to find acceptance at the hands of the House.

**Mr. N. M. Joshi** (Nominated Non-Official): The question be now put.

**Mr. President** (The Honourable Sir Abdur Rahim): Sir Asoka Roy:

(Mr. Bhulabhai J. Desai and Sir Muhammad Yamin Khan rose in their places to speak.)

**The Honourable Sir Asoka Roy** (Law Member): I have no objection to the Honourable the Leader of the Opposition speaking before me. I am entirely in your hands.

**Mr. Bhulabhai J. Desai**: Let us hear the Government views.

**Mr. President** (The Honourable Sir Abdur Rahim): The House would certainly like to hear Government views. The Honourable Member can proceed.

**The Honourable Sir Asoka Roy**: May I make my position clear? I only rose because I heard somebody move that the question be now put and I did not want to lose my chance of speaking. If you think that I should speak now, I will do so.

**Mr. President** (The Honourable Sir Abdur Rahim): I cannot compel any Honourable Member to speak. But it is just as well that the House should now know what the Government attitude is.

**The Honourable Sir Asoka Roy**: Sir, the motion before the House is the fourth motion moved by the Honourable Mr. Govind Deshmukh for reference of this Bill to the Select Committee. His three previous motions, Honourable Members will remember, were withdrawn by leave of the House. On the occasion of the third motion which was moved on the 10th November 1943, Mr. Govind Deshmukh did not seek leave to withdraw until after the motion had been fully debated and I had the opportunity of explaining the grounds on which Government would find it necessary to oppose the motion. The first of these grounds was that piecemeal legislation should not be undertaken when comprehensive legislation was on the anvil. Now, Sir, I readily admit that I am now on much less firm ground in advancing this argument than I was in November 1943. Since that date, the comprehensive Hindu Marriage Bill, prepared by the Hindu Law Committee, has indeed been referred to a Joint Committee, but subsequent developments have rendered it improbable that the Bill will be proceeded with. I refer, Sir, to the publication for opinion by the Hindu Law Committee of the comprehensive Hindu Code designed to replace all previous measures prepared by the Committee including the Marriage Bill. In these circumstances, it is clear that no question can arise of proceeding further with the Hindu Law Committee's Marriage Bill pending a decision whether Government should introduce the comprehensive Code as a Government Bill. No decision on this question will be possible until the process of consultation with

[Sir Asoka Roy.] -

public opinion initiated by the Committee has been completed and the Committee has made its report to Government. This in itself will involve some delay, and I feel that Government can no longer use the fact that comprehensive measures of Hindu law reform are under contemplation in the immediate future as an argument for opposing individual Bills dealing with particular incidents of the Hindu law, and that their attitude to any such Bill must be determined on considerations specifically applicable to the particular Bill in question.

On the merits of Mr. Govind Deshmukh's Bill I pointed out in my speech of the 10th November, 1943, that it was now settled law that marriages between persons belonging to different subdivisions of the same primary caste were not invalid and that it was therefore sub-clause (a) only of clause 2 of the Bill which involved any change in the existing position. I also pointed out that the sub-clause in question embodied a more radical change in the existing law than that which had been proposed in the Marriage Bill prepared by the Hindu Law Committee who, while professing to apply the doctrine of *factum valet* to marriages between Hindus belonging to the same gotra or pravara, had decided after most careful consideration that in so far as sacramental marriages were concerned the ban on such marriages should stand. In this connection I advanced the argument that with the Special Marriage Act available it was unreasonable for Hindus desiring to marry within the same gotra or pravara to demand such change in the law as would legalise the sacramental form of such marriages. On this point I confess I have been very much impressed by the attitude of my Honourable friend Mr. Sri Prakasa, and I no longer desire to press this particular argument. My main ground, however, for resisting sub-clause (a) of clause 2 was the fact that Hindu opinion was sharply divided on the merits of the proposed alterations in the law, and that orthodox sections of opinion were hotly opposed to the proposal. If only for this reason, Government cannot lend their support to the motion before the House. They have, however, while reserving complete freedom of action in respect of the attitude to be adopted in subsequent stages, decided not to oppose the motion on which official Members will therefore abstain from voting.

I should like, however, to say a few words on the Bill as drafted. My Honourable friend the Mover said that he did not wish to interfere with restrictions of other kinds like prohibition of marriage among sapindas. But the Bill as drafted does not seem to make that position clear. I might also point out to him that the Hindu Law Committee have prepared a fresh draft of the provisions regarding marriage in their draft Hindu Code, and they have made alternative suggestions regarding sacramental marriages. One of the alternatives provides that there will be no bar to sagotra marriages provided the parties are not within the degrees of relationship prohibited by the Chapter on Marriage and are not sapindas of each other. I presume my Honourable friend the Mover does not wish to go beyond what has been suggested by the Hindu Law Committee in the alternative suggestion I have just referred to.

Sir, I desire before concluding to refer very briefly to some of the speeches made in this House. My Honourable friend Dr. Deshmukh in the course of what has been described as a violent speech made a charge that discussion on this Bill had been systematically and from Session to Session prevented in this House; and he also charged me with having threatened and bullied and applied third-degree methods to his brother who—I understand, by the way—is his elder brother; and I do not believe that Mr. Govind Deshmukh asks for any protection from anybody, much less from his younger brother. Sir, I shall ignore the charges made against me personally which my Honourable friend should have known—and by this time does know, I hope—were, to say the least, unfair.

But he seems to be entirely ignorant of the fact that this Bill had been on several occasions discussed at length in this House. I confess, however, we have never had a speech in the past on this Bill from my Honourable friend Dr. Deshmukh and we have never had a speech of such inordinate length as my Honourable friend made in this House. I have been looking up the debates

and I find that apart from the Mover of the motion at least about a dozen Members of this House had participated in the previous discussions which had taken place from time to time on this particular Bill. However, Sir, I presume even Dr. Deshmukh himself will be satisfied with the very full discussion we have had on this occasion. I would like to say a few words about my Honourable friend Mrs. Subbarayan. She told us that she had come over from her sick bed to speak on this motion. I was glad to see her in the House and to hear her speak on the motion, more so because it appeared to me that she had risen from her sick bed to make an attack on me. But the worst charge she could think of making against me was that I had failed to cultivate or acquire the habit of speaking on the policy of the Government of India in vague language when on tour. When Mrs. Subbarayan was making this charge my Honourable friend Mr. Joshi interposed with an observation which assured me that there were certainly other Members of the House who did not take a serious view of my conduct in observing silence during my tours.

There was a charge also that discussion on the Hindu Law Committee's Marriage Bill was curtailed by me. I entirely repudiate that charge. Government was also blamed by my Honourable friend for the procedure followed by the Hindu Law Committee. All that I can say is that it is open to the Committee to follow its own procedure, and I am sorry that Mrs. Subbarayan should have sought to lay the blame on Government for the actions of the Committee.

Sir, I do not desire to deal at length with the various other speeches made in the course of this debate; but I think you will be satisfied and every Member of the House will be satisfied that the debate has clearly shown considerable diversity of opinion amongst Members of this House and that, I submit, would fully justify the attitude Government have decided to take with regard to this motion. Sir, that is all I desire to say.

**Seth Sunder Lall Daga** (Nominated Non-Official): Mr. President, I rise to oppose the motion of my Honourable friend Mr. Deshmukh for reference to a Select Committee of his Bill to remove certain legal disabilities under Hindu Law in respect of marriages between Hindus, particularly to legalise marriages between persons of the same gotra and between persons belonging to different sub-castes.

Sir, as a Sanatanist Hindu, I cannot but enter my strong protest against the Bill which attempts to interfere with two of the main principles of marriage amongst Hindus. Marriage, according to Hindu conception, is a sacrament. Marriage between persons of the same gotra and marriage between sub-castes are not permitted. The adoption of such un-Hindu principles into Hindu Law of Marriage cannot be tolerated. I cannot but oppose this motion in respect of a Bill which seeks to introduce such radical changes into the Hindu Law of Marriage. It is really an attempt to turn sacramental marriage into civil marriage.

My Honourable friend, the Mover, and those who think with him, contend that the provisions in question are not essential and can therefore be removed. But, Sir, may I ask, are they really competent to say so? Are they so familiar with the vast Hindu Shastras as to be able to judge correctly in this respect? I emphatically say, no. Religious heads of temples and Maths and learned Pandits versed in Shastras and other competent persons of the kind alone to my mind can pronounce upon their validity. Their first duty, if I may say so, should have been to approach the religious heads and seek their opinion.

Sir, I also feel that matters of this type should be beyond the scope of a secular body such as this Honourable House. As an orthodox Hindu, I am not prepared to accept any interference by the Legislature with the laws and practices laid down by our divine sages and saints. Mr. President, I have to point out to my Honourable friends that my view on this point received support from strange quarters. Even in England and as late as 1919 a separate body of experts was formed under the "Church of Assembly Act" to deal with matters of religion. They were left outside the scope of Parliament. That Act received support from prominent persons like Lord Hugh Cecil and Sir Arnold Wilson.

[Seth Sunder Lal Daga.]

Even if we, Sir, apply the canons of secular legislation to this matter, the radical changes proposed by the Honourable Mover have not the slightest support of the vast majority of Hindus whom they will affect. Nor are the provisions to be changed, so shocking and widespread evils, as require removal. On the other hand, the proposed changes, on the very admission of the Mover will affect only a limited number of go-ahead people in a few particular localities. And, Sir, with what object? For the purpose of expanding the field of choice for brides and bridegrooms, and to make children and grand children happy. With all deference to my Honourable friends, it hardly justifies changes in respect of even a mere secular matter.

Now, Sir, let us examine how my Honourable friend, the Mover of this motion, wants to get this matter through. He has proposed a Select Committee not of Hindus alone, but in order to get the Select Committee's report in his favour he has included in his Select Committee a large number of non-Hindus. I feel that it is not fair to change the fabric of Hindu marriage system through non-Hindus.

Would a Muslim member do so? My first answer is they will not. Secondly, they dare not. In the Central Haj Committee, do they take a Hindu or a European member? No, they take Muslims only. What prevented my Honourable friend to take Hindu Members of this House only and to co-opt Hindu Pandits to assist the Select Committee? I appeal to the non-Hindu members of the proposed Select Committee not to lend themselves to this and I am sure that they will be the last persons to do so.

Does the position improve by the proposed changes being made permissive? In my opinion it does not. Permissive social legislation, like laws made in advance of the sentiments of those affected thereby, bring in their train more evils than they seek to remedy. Hindu Widows Remarriage Act, Civil Marriages Act, Sarda Act show the obvious evils of such legislation and the real difficulty of enforcing its provisions on an unwilling and unsympathetic community.

In conclusion, I earnestly request the Mover to drop this Bill at any rate for the time being and trust to the vitality and adaptability of Hindu religious, legal and social systems to meet the urgent needs of the community for centuries by absorbing new ideas and discarding old ones. I would beg of the Mover and his supporters such as his brother Dr. Deshmukh and Mr. Sri Prakasa not to take it amiss, if I tell them that it is far better that they should proceed on the democratic principle of working from within and of converting their present minority into majority by appealing to the heart and conscience of the Hindu public. I say emphatically that no amount of legislation as sought and no amount of pressure from an outside authority will serve their purpose. Whether one likes it or not, caste system in Hindu Society—or for the matter of that in every society in one form or another—cannot be ignored and will have to be tolerated. Those who would like to get out of what they call disqualifications are at liberty to do so but only by way of civil marriages where Hindus can declare themselves as such under Dr. Gour's amendments to the Civil Marriage Act. But it will be a sham and a mockery to call such marriages sacramental. Sir, I oppose this motion.

**Mr. Jambadas M. Mehta** (Bombay Central Division: Non-Muhammadan Rural): Sir, I am not opposed to marriages between agnates for those who want those marriages to take place. I am only opposed to the Bill before this House; in this connection I submit that the right attitude would be to judge every question by the dry light of reason, not by pre-conceived notions.

Sir, I am born and brought up in an orthodox Hindu family, but I am grateful to Almighty that I have got liberal education which enables me to take a rationalistic view of social, economic and political questions. I judge this Bill not simply by blind faith in the scriptures, or any other authority, or any code, but by reason only. (Interruption.) You can never fail when you appeal to

reason and therefore I shall ask the House to judge this question solely by the dry light of reason. I have profound veneration for the Shastras, I shall certainly pay respect and attention to everything that comes from Manu and other law-givers, but ultimately, I shall use nothing else but the God-given privilege of applying my own reason to the proposition before us . . . . .

**Mr. Sri Prakasa:** Love will drive away all reason!

**Mr. Jamnadas M. Mehta:** If I agree with it then there is no difficulty. If I do not agree with it, with profound respect I shall take my own line. That is I think the only right attitude to adopt. I am entitled to ask my friend Dr. Deshmukh to adopt that attitude, because if I remember aright, he was a member and President of the Rationalist Association in Bombay. I think he is still a member of the Rationalist Association.

**Mr. Sri Prakasa:** That is why he is a Rationalist!

**Mr. Jamnadas M. Mehta:** First of all, as has been pointed out and as has been also admitted in the Statement of Objects and Reasons, the second part of clause 2 is not necessary because such marriages are already valid in law. They do not require any conscientious declaration that you do not believe in Hindu Religion. All that has been swept away and not any Hindu who wants to marry a person belonging to a different sub-caste of the same caste is absolutely at liberty to contract that marriage. The controversy rages round Clause 2(a) and on that issue I wish to make certain submissions for the consideration of the House.

As I said even the marriages between agnates are not in law prohibited today. Those who feel that the field of marriage is restricted and that their romance for an agnate can only get satisfaction by marriage, are free to marry. They can do so under the present law, because if you sufficiently love a woman then these restrictions will not worry you.

**Dr. G. V. Deshmukh:** Even marriage is not necessary!

**Mr. Jamnadas M. Mehta:** That may be the experience of my friend, Dr. Deshmukh. I am confining myself to the question of marriage and I do say that if you have really sufficient affection for a girl and she is an agnate, there is nothing in law or commonsense to prevent you from marrying.

We have the story of Pandit Jagannath, one of the most learned of Sanskrit poets marrying an *yavan*-girl outside the Hindu society. He married a Muslim woman. That means he married entirely outside the Hindu fold and the Shastris of those days boycotted him until he was able to prove that an honest marriage is always sanctioned by God. He did this by praying to the sacred holy river. He did this by praying to the sacred holy river Ganges to testify that he was not at all tainted by the marriage with a Muslim girl. Anybody who wants to marry an agnate has the example of this Pandit Jagannath whose case was far more serious than any difficulties that obtain today. As the Pandit prayed, the holy river Ganges mounted and mounted till she reached the place where Pandit Jagannath and his wife were sitting and thereby declared him to be pure. The other Pandits had to withdraw their objection and he remained a perfect Hindu for the rest of his life. I think no one in the reforming section of this community will dare to challenge this historical fact.

**Dr. G. V. Deshmukh:** Do you think that is reason!

**Mr. Sri Prakasa:** How does the river rise and rise!

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

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Abdul Qaiyum (one of the Panel of Chairman) in the Chair.

**Mr. Jamnadas M. Mehta:** Sir, when the House rose for the luncheon interval I was submitting for the consideration of the House . . . . .

**Mr. Sri Prakasa:** The river Ganga was also rising at that time.

**Mr. Jamnadas M. Mehta:** I was referring to Jagannath Pandit who having married a non-Hindu woman, appealed to the holy river Ganges to rise and

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purify him. As one sloka after another was recited by that great Pandit, the sacred river rose, rose and rose at every sloka until his body was washed by the sacred waters of the river and the Pandit was purified. There was nothing objectionable in the marriage of the Pandit with the Yavani girl, because the marriage was perfectly honest.

**Mr. Sri Prakasa:** Is it not a fact that he went down step by step?

**Mr. Jamnadas M. Mehta:** No, that is not so. You live on the banks of the Ganges and are so ignorant.

**Mr. Sri Prakasa:** I deal with the Ganga every day.

**Mr. Jamnadas M. Mehta:** Familiarity breeds contempt in your case. Though you are too near you are too far: those who are nearest to the Church are farthest from God. I do not think that there is any objection at all in the case of an honest marriage with a Yavani, I do not understand why my friend Dr. Deshmukh and his elder brother, Mr. Deshmukh, insist on a Bill being passed. There is nothing in the Bill which is not today permissible. I say therefore that the object of this Bill is not to make marriages between agnates valid, because they are valid under the Special Marriage Act but to pose as reformers, my friends want to have the kudos of being social reformers and show that others are reactionaries. In the Hindu scriptural text and in the authoritative Hindu literature there is no prohibition against anybody who wants to act according to his conscience. There is one particular text, which I remember, which says:

*"Shrutirhi bhinna smritirhi bhinna", etc.*

Which means that the Vedas differ, the Smritis differ; not one single *rishi* or *muni* is there whose views are categorically imperative on anybody. Therefore if you really want to marry an agnate, here is my authority for doing so. Why do you want the sanction of this puny Legislature? There is absolutely no necessity. You have got complete freedom and complete authority in the shastras.

**Dr. G. V. Deshmukh:** Let us have the authority of the Legislature also.

**Mr. Jamnadas M. Mehta:** It is not that you want any such permission because it is already there but because you want to pose as reformers. There is a verse of Kalidasa's which is another authority:

*"Satamhi sandeha padeshu vastushu Pramanamanta karana pravrutayah."*

It means that for the wise man and the good man, wherever there is a conflict of opinion, wherever there is a doubt the authority is the voice of their own conscience.

**Mr. Sri Prakasa:** Is "Sakuntala" a sacred book?

**Mr. Jamnadas M. Mehta:** I did not say so; but it is a very good book and a better authority than the supporters of this Bill.

There is nothing in the Hindu scriptures or Hindu law, as it is understood, except custom, which has now become the reason for this Bill. Therefore I beg of my friends to desist, because they have no grievance. There is, on the other hand, a real grievance of the majority of the orthodox Hindus against your intruding into their joint family life.

**Mr. Sri Prakasa:** The Civil Marriage Act interferes with the joint family: in fact it breaks it.

**Mr. Jamnadas M. Mehta:** Though I like this discussion across the Benches I am not going to yield my place. My friends have a grievance that the agnates are not today allowed, under the Hindu law, the right of marriage but if those who are fired with the zeal of reform want the right, why should they care for this customary law?

**Dr. G. V. Deshmukh:** Is this only a pose of orthodoxy just as it is a pose of reform in the case of others?

**Mr. Jamnadas M. Mehta:** I think, Sir, I ought to be protected. These interruptions interfere with the Chair's dignity.

Sir, there is overwhelming opposition from the orthodox Hindus and my friends would do well to do some propaganda and education among them so that they may agree to this change in the customary law. Let my friends consider

what happened in other countries. They cannot be ignorant that in England a man was prohibited from marrying the sister of his deceased wife.

**Mr. Sri Prakasa:** It is a very old story. They are allowed now.

**Mr. Jamnadas M. Mehta:** It took them 300 years to change public opinion to permit the marriage between the deceased wife's sister and the widower. In the case of England it meant 300 years for a nation with only 40 millions of people. Here we have 400 millions of people. Therefore on a purely arithmetical basis it should be 3,000 years.

**Dr. G. V. Deshmukh:** Dating from what date?

**Mr. Jamnadas M. Mehta:** From today or if you could persuade public opinion earlier. I therefore submit that the impatience of my friends is altogether unjustified. Besides, what is a reform? Why are you claiming that this Bill is a reforming measure? Every change is not always for the better, simply because you change it does not become a reform. A reform must be something constructive in the life of a community which puts it higher in the scale of humanity. This is merely a change. My esteemed sister, Mrs. Ray, described, in her zeal for supporting this Bill, the orthodox people as not giving equal rights to women. This Bill is not a question of equal rights for women. This is a question of equal rights between men and women and I am opposing both. I do not want a man to marry an agnate and remain in a joint family. In an orthodox joint Hindu family, an agnate is considered a sister, and the unhappiness that will be caused in that family if one of its members brings into it an agnate as his wife can better be imagined than described. And why should he do so? His reform consists in trampling on the liberty of others. This means coercion of orthodox people who are today under the strong conviction that a marriage with an agnate will be a great calamity to the joint Hindu family. That is my reason for opposing the Bill and yet I am allowing agnate marriages. Let them marry under the Special Marriage Act.

Then, Sir, I am sorry that some of the speeches made in support of the Bill were somewhat unhappy in tone and in language. My friend, Dr. Deshmukh, started with a great attack on the custom, called it monstrous, he called some of us as pseudo-Sanataniists, and he claimed to stand before us as the champion and embodiment of reform. If anybody reads his speech, he will find that while Dr. Deshmukh opened in grand form, when he was about to complete his speech, he climbed down at every sentence until he made the most abject appeal to the Law Member and to the House. Let him read his speech. I do not see what is the advantage of first attacking people who have honest differences of opinion and then falling at their feet. I am sorry that his speech broke down utterly as it was about to complete although it started in a high and mighty style.

Then, my esteemed sister, Mrs. Subbarayan, spoke with a feeling, the sincerity of which I appreciate. I respect her views, what she said she is fully entitled to say; but I do submit to her whether it was necessary to make such a cruel attack on the Law Member. I do not think in the speech which the Honourable Sir Asoka Roy made he has shown that he is opposed to any change in law—his private opinion he has never forced on us—I think the real difficulty is you do not know what his opinion is, and that is not a subject matter for levelling an attack on him. We must give others as much credit for sincerity and honesty as we claim for ourselves.

But I say, Sir, Government should take a more vigorous attitude. I am not satisfied with the attitude of the Law Member, he has taken up an attitude of neutrality. I think, Sir, Government are bound to consider opinion of the majority of the Hindus, and if they find the majority of the Hindus are against a measure of this kind, they should definitely oppose it until they find that the opinion of the majority of Hindus is in favour of this Bill; Sir, I do not know why the zeal of some of my fellow legislators always descends on the poor Hindu community. There is a custom among some of our countrymen, our Muslim brothers, called *purdah*. Well, some of us might not agree, some of us might agree. Some might think that women should be allowed to see the light of the day, but so long as it is their religion, so long as it is their social

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practice observed by genuine Muslims, it is not my business to interfere with them. I will ask my friend Mr. Deshmukh to try and interfere with this custom if he dares. Chairs will rise in this House.

**An Honourable Member:** There are no chairs.

**Mr. Jamnadas M. Mehta:** There are enough of them, and they will rise in the sky.

**Mr. Chairman (Mr. Abdul Qaiyum):** The Honourable Member is arguing with the Members opposite.

**Mr. Jamnadas M. Mehta:** I do feel as a Hindu that the removal of *purdah* is far more necessary than the marriage of agnates, but I do not think Mr. Deshmukh or anybody in this House or outside will dare to bring a Bill for removing *purdah* and be safe tomorrow morning. Such is the strong conviction and belief of our Muslim colleagues that my friends will never have the courage to bring before this House such legislation. It is the poor Hindu community which is found to be the target of the reforming zeal of some men, of whom some have already broken the Hindu laws by marrying outside Hindu community, some have married among castes which are not permissible, and some have married in Europe. They know nothing about the Hindu society. They know nothing about the keen feeling amongst the Hindus on these matters, and they simply talk reform in the Hindu community because they cannot do anything else.

Sir, I have two more observations to make. I find that my friend Mr. Deshmukh has packed the Select Committee with people who will support him. I am not a candidate for the membership of the Select Committee, I assure you. I do not know why my friend Dr. Sir Ratanji Dinshaw Dalal's name, although he has refused to be a member, is still being retained.

**Dr. Sir Ratanji Dinshaw Dalal (Nominated Non-Official):** I beg that my name may be struck off.

**Mr. Jamnadas M. Mehta:** He has the courage of his conviction. As soon as he realised that he had made a mistake he frankly agreed to stand out and not interfere with the social customs of the Hindus. I would also beg of my fellow Muslim Members to desist from being on the Select Committee.

**An Honourable Member:** Why?

**Mr. Jamnadas M. Mehta:** Because "Agnates and Sapindas" are ideas beyond their knowledge. With very great respect I would request them not to remain on the Select Committee.

**Sir Syed Raza Ali (Cities of the United Provinces: Muhammadan Urban):** Mind your own business.

**Mr. Jamnadas M. Mehta:** It is my business to tell the Honourable Member that he should not dare to interfere in my business. It is my business, I am minding it. You cannot say that this is not my business. It is my business and I warn the Government and our Muslim friends not to support this Bill and not to remain neutral.

**Dr. G. V. Deshmukh:** This is not a Hindu Sanghatan House.

**Mr. Jamnadas M. Mehta:** This is a legislative body and everybody can express his opinion humbly, and I am only requesting them. Even a cat may look at the king. Why does Sir Raza Ali think that I am not minding my business? I am minding my own business and because I am minding my business I do entreat him, if he is a member of the Select Committee, not to remain on it.

**An Honourable Member:** He is not.

**Sir Syed Raza Ali:** That is taking a very short view of things.

**Mr. Jamnadas M. Mehta:** Then, you have excluded genuine Hindus like Pandit Nilakantha Das. He is a scholar and a professor and a student of Hindu social and religious affairs, and he has been quietly passed by because.

**Mr. Govind V. Deshmukh:** A man who says that Sanskrit is a conglomeration of all dialects and not a pure language!

**Mr. Jamnadas M. Mehta:** He is a man with a liberal mind and he can be expected to bring to bear on this Bill in the Select Committee, if at all that motion is passed, a more liberal outlook. Apart, therefore, from the merits of this Bill, I do say that the way the Select Committee is composed shows that the authors and supporters of the Bill are afraid to face the opinion of genuine Hindu leaders. My friend, Pandit Nilakantha Das, is an accepted Hindu leader of great eminence by all his people. Therefore on the ground of merit and on the ground of improper constitution of the Select Committee, I think the Select Committee itself is bad. Lastly, I once more appeal to my friend Dr. Deshmukh not to press his motion. (Interruption.) I can only express my opinion. I am not asking you not to marry an agnate. When I ask a man to marry an agnate, I mean when he had an opportunity, not otherwise. If he has the opportunity I do not mind. (Interruptions.)

**Dr. G. V. Deshmukh:** If he has not, he must create!

**Mr. Jamnadas M. Mehta:** That is his lookout: I must mind my own business. However many the interruptions may be, I am game for them.

**Dr. P. N. Banerjee** (Calcutta Suburbs: Non-Muhammadan Urban): There is no time limit; there is plenty of time.

**Mr. Jamnadas M. Mehta:** The law on the subject has been pronounced to be the law in favour of those who want to marry agnates. The law is in their favour. Now, has the selection field for marriages among Hindus become so suddenly restricted that they want to extend it to agnates? No. There is no difficulty in agnate marriages if people want them. It is not that there are not enough girls in quantity and even quality.

**The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar** (Supply Member): In numbers and quality—not quantity!

**Mr. Jamnadas M. Mehta:** I agree with you and accept the amendment. Quantity and quality go so much together that I was betrayed into using a solecism. I thank the Honourable Member for Supply for correcting me. The Supply Member supplies the right word. In the Punjab and in my presidency and in many other places the difficulty is that the girls do not get husbands, not that there are not enough girls and that therefore the choice for the men is so limited. They can marry among agnates, if they want. The law allows it, the custom permits it wherever it exists; and at least for those who have the reforming zeal, these little distinctions should not matter. If I were free to marry and if I were willing to marry, I would not be deterred by this custom if I wanted to marry an agnate. Why should these people force on an unwilling community, against the best traditions of their race, an authority for agnates' marriage which is not existent today? Sir, I oppose, not the marriages with agnates, but the Bill.

**Mr. D. K. Lahiri Chaudhury** (Bengal: Landholders): Mr. Chairman, I have just had a whisper from my left; but I can safely say that I oppose this motion on principle.

**The Honourable Sir Asoka Roy:** Please speak up: we cannot hear you.

**Mr. D. K. Lahiri Chaudhury:** I was just telling the House that I am opposed to this Bill on principle, because I consider that this House, as it is composed, has absolutely no right to legislate a measure which would affect a particular community. As a matter of fact at the outset it may be argued that this is a merely permissive piece of legislation and there is no coercion in it. Still, I must judge it from my own angle whether this House is competent enough to deal with a matter where there may be serious controversy; and from the speeches up to this moment, which were delivered here, I have found that there is a consensus of opinion against it, though it is said to be a permissive measure. I do not think I shall be contradicted if I doubt whether there has been a demand for this legislation. It has also been pointed out by different speakers and asked on whose behalf this legislation has been brought forward. It may be that there are some sporadic cases here and there, but that does not indicate that legislative measures should be brought before

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this House. I know that popularity is a commodity which is bought at a very high price; but sometimes when it is made cheap, it does not pay in the long run, though it may have a temporary glamour. But what I want to impress upon this House is this: whether we should bring up a measure like this which practically wounds the feelings of all those orthodox people in our country who hold views quite different from my Honourable friend the author of the Bill. But as we all know this country of ours has been unfortunately the victim of so many invasions and so many aggressions, but still I can tell this with all the emphasis at my command, that the Hindu community has maintained its existence owing to the rigidity of the Hindu social laws; and that rigidity should not be shaken so easily by simple popular catchwords in the name of social reforms. It may be just a passing phase—this cry for so-called reform; but I doubt very much whether this is advance or setback, it will only be judged by the posterity. But the question now is whether we are competent to enact a measure of this kind when we do not know our own

3 P.M. future destiny. Among the Hindus, marriages are regarded as sacramental. The sacramental marriage may be a superstition or a kind of conservatism, in its ideas. There is superstition in other communities also. In this House, since the enactment of the Sarda Act, there have been many friends who have been very jubilant about social reforms. They think that the best way of doing that is to enact legislation but they do not know how far legislation will bring about the object they have in view or what it will do to uplift the social standard of the nation. To many of us marriage is a sacrament and we do not want any infringement of that sacrament, which will alter its character. As my friend Mr. Jamnadas Mehta pointed out, the Special Marriage Act is there and any one who wants these marriages to be performed can do so without any obstacles in his way. The question is whether a claim in this behalf has come from the Hindu community itself. We are in a very unfortunate position and I frankly confess that making religion the basis for franchise is at the root of the evils today. That is why there is a race of communal numerical strength. What we find is that the numerical strength does not add to the strength of the community. In this Honourable House, the late lamented Lala Lajpat Rai used to occupy the seat which is now occupied by Dr. Deshmukh. I put him a question in the lobby whether numerical strength adds to the strength of a nation or not. At first he agreed. He said, 'Certainly, it is numerical majority that counts'. Then I pointed out to him 'Why in that case China with its huge population is a third rate power and England with such a small population is a first class power'. Then he said that it is not majority but integrity that counts. You must combine numerical strength with integrity. A great Russian poet said that knowledge was power and power was knowledge and unless you have both knowledge and power. . . .

**Mr. Chairman (Mr. Abdul Qaiyum):** The Honourable Member is straying from the principles of the Bill.

**Mr. D. K. Lahiri-Chaudhury:** I am trying to keep myself within the limits of this particular measure. What I want to point out is whether this House is competent to pass this legislation which will bring forth strong opposition from the community concerned. I am objecting to this measure on fundamental grounds. I do not want my religion and my sacrament to be interfered with by a body which cannot command a majority of support from my community. (An Honourable Member: "Question".) You may question but the answer is clear. I challenge any Honourable Member to take a plebiscite on this subject of social legislation and you will not find many men to support a Bill of this kind. I say it is absolutely detrimental to the interests of those who hold a different view from the author of this Bill. It is not a mere matter of social reform. It practically touches our heart and conviction. After all if superstition is to be judged from one particular point of view, it has got to be judged also from another point of view. We are discussing this subject

in a light-hearted fashion in this House. I would like to mention the case of England where even the King could not marry a woman of his choice and yet maintain his kingdom. I remember Earl Baldwin who was then the Premier of England said to the King 'Your Majesty, your marriage is not the marriage of an ordinary citizen of England, because your wife will become the Queen of England'. He quoted the lines of Shakespeare:

"Thy will is not thy own  
For Ye yourself is subject to your birth  
You can not carve things as ordinary people do  
For in your choice depends the safety and health of the country."

**Shrimati K. Radha Bai Subbarayan:** On a point of information? Is there sagotra marriage in England?

**Mr. D. K. Lahiri Chaudhury:** It is not a question of Sagotra marriage at all. What I want to emphasise is this: that in a country like England where there is no question of gotra or pravara even these marriages are not dealt in a light-hearted manner.

**Mr. Sri Prakasa:** We are legislating for ordinary people.

**Mr. D. K. Lahiri Chaudhury:** I know you are legislating for ordinary people. These sagotra marriages are valid among the Kayasthas. Will my Honourable friend let me know how many marriages have taken place among them? Will Mr. Sri Prakasa give me the statistics? It is already permissible and I want to know how many marriages have taken place. I can just inform my Honourable friend that in spite of the existing customs amongst Kayasthas permitting sagotra marriages, there have not been many marriages. Then why are you insisting at this stage that there is a demand for such reform. Has the Hindu community as a whole demanded it? I do not think the author of the Bill has been able to put before the House that amount of opinion which is decisive to support the measure. That is the reason why some are dealing with the question of marriages so light-heartedly. Marriage is a sacrament in Hindu society. In other countries, it is not so. My esteemed sister Shrimati Radha Bai Subbarayan questioned me whether there was gotra in England. There is no gotra in England, but all the same, marriage is regarded as a very serious question that the King had to lose his throne because of his marriage. In Hindu society where marriage is regarded as a sacrament, why should you disrupt that society by bringing in legislation of this character? (Interruption.) Why should you go on changing customs and usages according to your sweet whims? Have you placed any facts before the House which demand this kind of legislation? My esteemed friend, the Honourable the Law Member has clearly pointed out that even the Government are not in favour of this piecemeal legislation.

**An Honourable Member:** He did not oppose the measure.

**Mr. D. K. Lahiri Chaudhury:** Strictly speaking, his speech was non-committal. I quite appreciate that. He may be neutral, he may be against or he may be in favour. My only question is whether the time has come to bring about a measure of this kind which will not only affect our community but which will shake Hindu society to the very foundations by attacking sacramental marriages. With these words, I oppose the measure.

**Mr. Bhulabhai J. Desai:** Mr. Chairman, it is my duty to say a few words on this Bill which is before the House. I do so not merely because I belong to the Hindu faith, but because the grounds on which discussion has strayed have been so diffused and have been so wide of the mark that I cannot agree with most of the grounds that have been advanced. If I vote in support of this matter, it should be clearly understood how and under what circumstances I do so. For, indeed, in the first instance, I want it to be clearly understood that those who sponsor Bills of this character, reforming social code of any particular community, have no right whatever to stand on the footing that that particular code is bad or the very worst in all human associations and societies. It has almost become the fashion with some people, as if every other code founded either on a sacred book or on any other book is sacred, but that we, poor Hindus, seem to be the only targets for a reform which is already overdue and which is so late. I thoroughly dislike the idea

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of being told that when all social codes necessarily arise—very often like all religions—they either become so sacred that they cannot be altered or that they are so bad that they must be immediately scrapped and altered. I wish to disavow the way in which ridicule is poured on every single item which a particular individual as a reformer wants changed. It is a thing against which I wish to enter a very emphatic protest. I do believe myself that all social codes have necessarily a foundation on some faith out of which they grow. A time must necessarily come when the growth is out of all proportion to the original foundation from which it arises, and a time does arise when human society and human reason begins to think that what was regarded as the logical outcome either does not suit society and the environments in which we live or that the very logic of it does not support the growth itself. That is an approach which I fully appreciate; but I do not appreciate the approach of those who seem to ridicule our institution. I am born a Hindu and am a Hindu and I think that the civilised basis on which the Hindu code has grown would, if properly studied, be the real envy of the world, that it is extremely civilised is not to be proved by merely asserting it. If you consider the foundations, it may well be that the time has come when you may regard marriage not as a sacrament but as a contract. That is a matter of opinion. But nobody can be bold enough to assert that sacramental basis of marriage is something which may only stand ridicule, that is what I want to protest against, or that the manner in which Hindu society developed either in the matter of marriage or in the matter of inheritance is so essentially wrong that everything else is right. It is true that we have a system of succession in which we have got a series of heirs to the exclusion of the next. It may well be that society may consider that a plurality of heirs based on some other consideration may be more suited to the present state of society. But let me say this that I am no party to any legislation, or in the name of legislation to a kind of condemnation which is almost inherent in many of the speeches that are being made on these occasions.

I am coming back to the Bill, the very narrow subject with which it deals:

"This Act may be called the Hindu Marriage Disabilities Removal Act, 194

Notwithstanding any custom, rule or interpretation of the Hindu Law, a marriage which is otherwise valid, shall not be invalid because :

- (a) it is between Hindus belonging to the same gotra or pravar; or
- (b) it is between Hindus belonging to the different sub-divisions of the same caste."

So far as this narrow issue is concerned, one need not either condemn Hindu faith or the Hindu system of marriage, nor be a reformer nor a rationalist as some of my Honourable friends have said here. In every faith, it may take time, but there is no reason why some people may not, in advance of time, educate public opinion on matters on which it may be desirable that society should change. I advisedly use that word and do not call it progress, if my Honourable friends do not like it who are opposed to it, but those who stand for change can justify it on reasonable grounds having regard to the society in which we live and the conditions of life which have altered them ask for change. That is the only ground on which I propose to support the measure. Let it not be understood that I stand for utter eradication of either Hindu faith or Hindu society or Hindu code based on shastras. I think the process that has been followed is a very wrong process and it is time that we do not follow that process. We have a particular measure, as such, that it requires the support of the House, and because it is a change, I submit, it should be done. But if it is to be made into a Hindu mission, then it is a Bill which I cannot support. It is a zeal which I deprecate. At the same time, I do desire that any change that is required in our system of life should be brought about because very often the survival of these matters becomes very difficult consistent with society in which we live. Many of my Honourable friends seem to imagine that this is a Bill which is going to do away with prohibition against agnate marriages. Those who understood in that way did not

understand the words, agnate and sagotra at all. The two things are entirely different. There are two things in Hindu law, prohibition against consanguinous marriages. That is not affected by this Bill at all. I believe that modern science has shown that so far as possible, you must not marry within such near degrees either of blood or on marriage because it is said the deterioration takes place in the condition physical, mental and moral. But that has nothing to do with this point. Therefore we must confine ourselves to the point. I stand for a prohibition of such agnate relationship marriages, which is perfectly valid. But gotra is a matter which stands on a different footing. It may well be that in some ancient time it was a tribal or some other connection which was described as a relationship and which was valued and respected. If you learnt with another under the same *guru* you were known as *guru-bhais*. It was a relationship which was respected and in fact Hindu law recognises a *gurubhai* among distant heirs. But it is a very different proposition from that which makes a marriage undesirable because the man and the woman stand within the prohibited degrees of marriage by reason of consanguinity. In fact I believe that so far as one's gotra is concerned it is a matter of condition. At the time when the sacred thread is given the gotra to which you belong is whispered into your ear,—mine is Kashyap. I was told that some remote ancestor of mine had learnt under the same *guru* with the ancestor of another and so we belong to the same gotra. It is a relationship which is purely traditional, which you cannot trace and which you cannot give any historical reasons for. It must stand on a different footing from blood relationship. Therefore I want the House to realise that it is not the case that by passing this Bill they will be encouraging agnate marriages; as some of my Honourable friends erroneously described it. Pravara, of course, stands on a very much lesser footing than that. In other words, these relationships are purely traditional; the time has come when we cannot even trace its origin and so cannot allow this fetish to continue. When it was near enough in time, when the tradition had not grown and the common *guru* could be actually traced, there was a certain degree of sanctity and sentiment which I can appreciate. But, Sir, many centuries have gone by. Some of my Honourable friends mentioned books by learned people. But can any one find out from any of these books the gotra to which I belong? I defy them to do it. Therefore sagotra and pravara stand on a very traditional kind of relationship, and there is nothing irreligious or unsanctimonious if you do away with it. The time in fact has arrived when you can easily do away with that kind of tradition in the matter of marriages; and that is all that is sought to be done. Let the issue be judged on a purely logical basis. We are not encroaching on religion or on some fundamental principle; we are not making marriage worse than it ought to be; we are not preventing a sacramental marriage; let there be no wrong issues about it. All that is said here is that a Hindu marriage which otherwise might be invalid by reason of people belonging to this traditional relationship would still be valid notwithstanding their relationship; and, as I said, that relationship goes so far back into the hoary past that it cannot be traced, except in tradition.

That is the first part of the Bill; the second part relates to marriages between persons belonging to different sub-divisions of the same caste. It is now universally accepted that Hindu society was divided into divisions for its own self-preservation. That is the only ground on which my friend Mr. Munshi and many others, whose historical tomes I have read, seem to support this particular matter. They say there was a time in Hindu society when their very self-preservation required these narrow bonds in order that there might not be a foreign inroad, foreign either in its origin or in its influence. But now that time and space have for all practical purposes been annihilated we cannot have those same conditions of life in which we lived at one time. And the time has now arrived when we should boldly say that any marriage between members in a sub-caste should be valid. What is there irreligious about it? We are not saying that two members of the sub-caste may marry

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even if they are within the prohibited degrees. All that we say is that people may marry within the caste, so as to remove one of the things which is cast in our face by the rest of the world. We will then have not more than four sub-divisions of Hindus among whom marriages would be lawful. I do not know of any law or principle or reason why, apart from any question of faith, a marriage among persons in the same sub-caste should not be made lawful.

These are the only two matters before the House and I want them to be judged entirely on their merits. It need not be said, and it should not be said, that we are encroaching on the Hindu faith, Hindu religion or Hindu society. I hope and trust that friends who are here, however learned and orthodox they may be, will not stand for this, which in Europe and America and everywhere else seems to be the one outstanding and oft-repeated sin. I believe it is a sin that we have divided and created inequalities between men and women belonging to the Hindu faith, the great faith to which I belong. I believe it is a sin, and I believe the least we can do is to see that this kind of inequality does not stand, in the name of faith, in the name of sanctity or in the name of religion. Therefore it is that I appeal to my Honourable friends not to make wrong issues but to judge this Bill on its merits. Let them see if there is anything in it which goes against their conscience—I do not ask them to vote against their conscience—or anything against their reason; I will reason with them and show them that they are wrong. In future whenever any question of social reform comes before the House by way of legislation let us not imagine that we are at the bottom of the ladder and we alone are the only persons who deserve to be reformed. It is an attitude of mind which will drive people exactly to the contrary course; it will drive people to support wrong things. It may be that others have taken a longer time, but time is not the test in this matter; otherwise there would be no wisdom in this world. Merely because other people have taken 300 years, should we therefore take 3,000, as an Honourable friend said? He might make it three million—I would have no quarrel with him. Let us judge and learn by the accumulated wisdom of time. I always thought that lesser and lesser time was the only way in which we could make any use of all this in the past.

Sir, I stand not merely for the validation of marriages among people in the sub-divisions of a caste but among all people in the Hindu faith and the sooner that is done the better for us. I support the motion.

**Mr. Ananga Mohan Dam** (Surma Valley *cum* Shillong: Non-Muhammadan):

Sir, I have only to say a few words to my Honourable friend, Mr. Deshnikh, who wants to carry out this small reform in the Hindu society. Nobody is against reform, and everybody has got the right to advance the cause of the society as he thinks best. But I wish to ask one question: Is there any insistent demand among the Hindus outside this House for this reform? The reform which my Honourable friend wants to introduce concerns the marriages among the Brahmans—it is a small change. It is not prohibited among any other section of Hindu society, except Brahmans. Does he want to introduce this change, which is being opposed by a vast number of orthodox Hindus, only for this small section of Hindus—the Brahmans? Even from the standpoint of expediency I would ask him not to do so. If my Honourable friend is a reformer, if he has the good of the Hindu society at heart, he should first educate the people in this country, and he should create public opinion in favour of this reform. But at present may I ask him who wants this reform? I am sure he cannot show me a good number. So if this reform is not wanted by a large section of the people, what is the meaning of introducing this legislation? I think it is a hasty legislation, and such hasty legislations do more harm than good. In this connection, I would like to refer my Honourable friend to the Women's Right to Property Bill which was passed in 1937. Everyone in this Honourable House knows what kind of difficulties and complications it has led to. The reform was not good. I would advise my Honourable friend to think the matter in all its aspects and then introduce the reform. Things which are far more important can wait, but this small reform in the Hindu

society cannot wait. This is something which I cannot understand. If my Honourable friend, Mr. Deshmukh, wants to help the Hindu society, I think he had better wait.

My other reason is that the Government have appointed the Rau Committee which is touring the country and is collecting all sorts of opinion. They have got this question also on their list; it is included in the Draft Hindu Code. It says:

"Sacramental marriage not to be deemed invalid in certain cases—

No sacramental marriage shall, after it has been completed, be deemed to be, or ever to have been, invalid, merely by reason of one or more of the following causes, namely:—

- (a) that the parties to the marriage did not belong to the same caste;
- (b) that the parties belonged to the same gotra or had a common pravara; or
- (c) unless there was force or fraud that the consent of the bride's guardian in marriage was not obtained."

There are other things also. What I mean to say is that a comprehensive Hindu Code is soon coming out and those legislators who have the good of the country at heart do really want that this piecemeal legislation should not be introduced. A comprehensive Hindu Code was thought necessary and therefore the Government were compelled to appoint a Committee. This Committee is touring the country and is taking the evidence of learned people, people who have read the Shastras, and also those people who want to reform the society from their points of view. We should therefore proceed steadily.

Then, Sir, there is one thing which I would like to point out. My Honourable friend, Mr. Desai, has said that gotra has something to do with the spiritual *guru*. I do not know whether I have understood him aright, but I think gotra refers to blood relationship—it may be distant relationship—and not to any relation of disciple and spiritual guide. What the Hindus want is the purity of blood and it is for this reason that marriage in the same gotra and pravara is prohibited. In this connection, I would refer the House to the opinion of certain scientists—I have already quoted these in my speech on the Hindu Marriage Bill. Dr. S. M. Berwis (Washington) who is an authority on the subject, 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."

Sir, there is another opinion also. Dr. Frederic W. Price, M.D., F.R.S., in his "Medicine" 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."

What I mean to say is this: consanguineous marriage was prohibited not only on account of religious reasons, but because of scientific reasons also. Those Hindu saints who have laid down all these rules were not inferior to the modern scientists. Therefore, I say, that when there is a difference of opinion in this House and outside and when a vast majority of Hindus do not want this reform now, I do not see any reason why my Honourable friend should not withdraw this Bill and wait for a comprehensive Hindu Code which we hope will be ready within the next few months. I am all out for reform in the society, but reforms need not be introduced without taking into consideration the effects which it will have on the Hindu society as a whole. The Rau Committee is going into this question and I only warn my Honourable friend not to be hasty in these matters because hasty legislations do not produce good results. They say that it is a small change which is needed for the advancement of the Hindu society, but it is so small that it affects only a small section of Brahmans in the society. Even so, do not introduce this small change for some years more, and I don't think that the

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progress of the Hindu society as a whole will be obstructed in any way. Sir, with these few words I would request my Honourable friend, Mr. Deshmukh, not to press this Bill.

**Maulvi Muhammad Abdul Ghani** (Tirhut Division: Muhammadan): The question be now put.

**Mr. Chairman** (Mr. Abdul Qaiyum): The question is:

"That the question be now put."

The motion was adopted.

**Mr. Govind V. Deshmukh**: I have to thank the Leader of the Congress Party for having explained the scope of my Bill and having lent his support in the way that he has done. I have been charged by some of the Members with several things. First of all that I am an arm-chair reformist. Let me assure my friend that from 1921 I have been doing nothing except putting myself in close touch with the reformists and orthodox people and I have been a believer in working whole-time either for reforms or politics, and if you were to go through the newspapers in my province you will see that I have been agitating about this question.

Let me tell you how I brought this legislation. There was a good deal of agitation in my own province and I remember to have presided over a conference called the Kanwa Brahmin Conference in the year 1926 at Khamgaon and one whole night in the Subjects-Committee was devoted for the discussion of only one subject—whether there should be a marriage between persons of the subdivisions of a caste. After discussion in the open *parishad* we arrived at the decision that marriages between persons of the subdivisions of a caste should be considered valid. After two years there was the All-India Brahmin Parishad at Akola. Discussions took place for three days in the Sanskrit and in the Marathi language. There was a great discussion on this question of marriage between persons of sub-castes of a caste; eventually this resolution about marriages between persons of subdivisions of a caste to be valid was passed. After that there was a decision by a *mandal*, called the Dharma Nirnayak *Mandal*, a body well versed in all the Shastras. Men like Prof. Kane, translator of Smritis and Mahamahopadhyaya Phatak and others held a meeting at which a number of Shastris were invited and they passed two resolutions. One was regarding marriages between persons of subdivisions of a caste. These were considered to be valid; and the marriage between persons belonging to the same gotra were also to be considered valid. They further said that though we have come to these decisions, it is necessary that there should be legislation to that effect and somebody should try to get them put on the Statute Book. It was after that that I brought this Bill.

So you cannot say that the province was not educated and that there was no agitation over this question and that it was thrown like a bombshell on certain persons who have opposed this Bill. As for making this motion of reference of the Bill to Select Committee, it is not we, who support this Bill, who are hasty. This Bill was introduced on the 18th February, 1941, and circulated on the 29th April, 1941. Then a questionnaire was issued by the Rau Committee with regard to inter-caste marriages and marriages between sagotras. It was found from replies that 80 per cent. of the answers were in favour of sagotra marriage: the bar to be removed. So we had public opinion behind us. Afterwards, I received public opinion on my Bill also.

It will be found that about 80 to 90 per cent. are in favour of this Bill. It need not be said, as suggested by Mr. Ayyangar, that this Bill was not sent to the Pandits and others and their opinion not solicited. It will be found from public opinion on my Bill that religious bodies such as Bharat Dharma Mahamandal, Benares, with its Branches, and the All-India Varnashram Swarajya Sangh with its branches all over India, and the Shri Shankaracharyas of Dwarka and Kumbakonam gave their opinions. It is a different story whether they agree with the Bill or not, but the question remains that this Bill had received as much publicity as desirable and nobody can have any ground to say that this

Bill is being passed through without any public opinion being sought either from orthodox persons or persons who are educated and can think and reason for themselves. Apart from the public opinion received by the House on my Bill, part 2 of the Hindu Code, namely, marriage, was introduced and circulated for public opinion and the Bill was published in the *Gazette of India*, May, 1942. On that also public opinion has been received and again you find that the percentage of public opinion that supports that the disqualification of sagotra be removed is a high one. It cannot therefore be said that sufficient publicity has not been given before this motion was brought before the House. It is for more than four years that this question has been agitating the country. The matters connected therewith have been discussed in Bengal, Madras and in my province in particular.

It has been said: Where is the demand? But public opinion shows and the history I gave that led me to bring this Bill to the House shows that there has been a great public demand for a Bill like this.

Now might I say while I am on this point here that a reference was made by the Honourable the Law Member in his speech that there has been a conflict of opinion and therefore the Government was justified in assuming the attitude that it has done, and it was suggested, Sir, in support of this argument that a ladies' organisation headed by Lady Sircar was against this removal of disqualification of sagotra.

**The Honourable Sir Asoka Roy:** I did not refer to any ladies' association. I never also referred to Lady Sircar.

**Mr. Govind V. Deshmukh:** I am sorry. For the benefit of my friend . . . .

**The Honourable Sir Asoka Roy:** I left ladies alone!

**Mr. Govind V. Deshmukh:** You did a good thing . . . .

Let me inform my friend, Mr. Ayyangar, that there have been five bodies against one giving a contrary opinion. I had given him all the references to my speeches on this subject in my speech when I made this motion for reference to Select Committee. If he had gone through his brief I would have thought better of him, whereas he comes here and talks at random against any one and without any sense in it. He mentioned one body against the Bill. But there are now six bodies of ladies who are in favour of the Bill which I am sponsoring. I will give you the names. One is Arya Mahila Samaj, Bombay, Bhagini Samaj, Bombay, the Bombay Presidency Women's Council, then the Arya Mahila Samaj, the Association of the All India Women's Conference, Bombay, the Bhatia Sri Mandal Women's Indian Association, Madras, and the All India Mahila Samaj; that ought to satisfy you when you say that the ladies are against this reform.

**Mr. M. Ananthasayanam Ayyangar:** Are they all pucca Hindu ladies associations?

**Mr. Govind V. Deshmukh:** How do you know that they are not pucca ladies and pucca Hindu ladies too?

It has been said what is the use of having a Select Committee when people like Mr. Nilakantha Das are not there. In spite of the fact that both he and Mr. Ananga Mohan Dam were against this Bill, I had put down the names of both these gentlemen in a motion for Select Committee previous to the present one. I wanted to have the opinion of everybody and I did not want to exclude anyone, in the last Select Committee which I had proposed. In that I had suggested the names of Mr. Nilakantha Das and Mr. A. M. Dam and Bhai Parmanand. When I made this new motion for Select Committee my friend Mr. Nilakantha Das was not here and I could not put anybody's name without the consent of the Member concerned.

**Pandit Nilakantha Das (Orissa Division: Non-Muhammadan):** I was present that day.

**Mr. Govind V. Deshmukh:** I cannot trust you now. He made a speech the other day opposing my Bill and the next day he told me that he had wanted to support my Bill. On a former occasion the Honourable Member spoke something and then turned round and asked me as to what he spoke. I could have

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understood him if he had asked me as to how he spoke. I am not going to trust him.

**Pandit Nilakantha Das:** The Honourable Member has no right to slander me like this. On a point of order, Sir, the Honourable Member has practically slandered me and I request the Chair to ask him to withdraw his remarks.

**Mr. Chairman** (Mr. Abdul Qaiyum): There is no point of order. Will the Honourable Member resume his seat? Let the Honourable Member (Mr. Govind V. Deshmukh) proceed.

**Mr. Govind V. Deshmukh:** It has been said that part (b) of section 2 is not necessary, because the law is clear. I want to show that in spite of the fact that the law is clear the question of the legality of marriage between persons of sub-castes of a caste have always been raised. As far back as 1869 the question about the marriage between persons of sub-castes of a caste was decided (Muir's Appeals, page 141), and yet we find that till the year 1937 cases in this connection have been taken to the courts. Then there is the fluctuation of opinion. I think it is better to have it embodied in a Statute to make the matter clear. As to those who say that the law is clear, that the shastras are clear, that there are no injunctions against marriage between persons of sub-divisions of a caste, I would only tell them that they might profitably read paragraph 16 on page 9 of the Opinion received on this Bill from the Bharath Dharma Mahamandal, Benares. The Sankaracharya Mutt of Kumbakonam is also against: the reference is on page 28. The opinion of the Registrar of the Madras High Court is on page 6. He also wants that this question of marriage among sub-divisions should be made clear. I am pointing out to you therefore the necessity of having a clear provision in a Statute regarding marriages between persons of subdivisions of a caste to be held valid.

As regards the provisions of the Bill, they have been explained to a considerable extent. Those who thought that the sapinda marriage was not excluded wanted some argument against this Bill. The Leader of the Opposition—the Congress Party—explained that the sapinda marriage has been excluded. For a valid marriage what are the things that are necessary?

**The Honourable Sir Asoka Roy:** There must be a man and a woman!

**Mr. Govind V. Deshmukh:** For a valid marriage the parties must belong to the same varnam. There must be identity of caste but there must also be other things which make the marriage valid. The parties to the marriage should not belong to the relationship called sapinda. The gotras must be different. The Sapta Padi must take place. The persons may be of same caste, may not be sapindas and may have gone through all the forms of marriage but they may not have 'bhinna gotra'. The marriage is valid except for one factor and that is sagotra. It is to cover such cases that section (a) has been introduced and I cannot understand what reason any one can have against the drafting of the Bill. Sir, I think I have explained the provisions of the Bill and the necessity for the introduction of the Bill. I hope the House will support my motion. But there is one thing I would like to say. An argument has been advanced that the Code is there and why do you want this Bill. Let me say one thing about it . . . .

**Mr. Chairman** (Mr. Abdul Qaiyum): I think the Honourable Member has explained it several times.

**Mr. Govind V. Deshmukh:** I have not explained this point. I think the Law Member might follow a precedent which I will bring to his notice. I had introduced a Bill called Prevention of Cruelty to Animals Act (Amendment) Bill to prevent the practice of *Phobka* on milk animals.

**Mr. Chairman** (Mr. Abdul Qaiyum): The Honourable Member will confine himself to the provisions of this Bill. He is straying away from the subject matter of this Bill.

**Mr. Govind V. Deshmukh:** I am merely citing a precedent. Government had not brought in a Bill to prevent this cruel practice. A private Bill was brought in by me, public opinion was consulted, and when the stage was reached

for submitting it to a Select Committee Government brought in a more comprehensive measure. I withdrew my Bill and Government went on with its own Bill. A procedure like that could be followed. The fact that the code is there should not come in the way of this Bill being referred to the Select Committee. That is the one thing I wanted to say.

**Mr. Chairman** (Mr. Abdul Qaiyum): Dr. Sir Ratanji Dinshaw Dalal stated that he begged that he may be allowed to withdraw from the Select Committee. Therefore, I am omitting his name. The question is:

"That the Bill to remove legal disabilities under Hindu Law in respect of marriage between Hindus be referred to a Select Committee consisting of the Honourable Sir Asoka Roy, Mr. N. M. Joshi, Mr. Lalchand Navalrai, Sardar Sant Singh, Mr. T. T. Krishnamachari, Mr. Amarendra Nath Chattopadhyaya, Mr. Kailash Bihari Lall, Mr. Ananga Mohan Dam, Mr. G. Rangiah Naidu, Mr. K. C. Neogy, Mr. Hooseinbhoy A. Lalljee, Rao Bahadur N. Siva Raj, Mr. T. Chapman-Mortimer, Mr. Sri Prakasa, Shrimati K. Radha Bai Subbarayan, Dr. G. V. Deshmukh, and the Mover and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The Assembly divided:

AYES—22

Chatterjee, Lt.-Col. Dr. J. C.  
Chettiar, Mr. T. S. Avinashilingam.  
Chetty, Mr. Sami Vencatachalam.  
Chunder, Mr. N. C.  
Desai, Mr. Bhulabhai J.  
Deshmukh, Dr. G. V.  
Deshmukh, Mr. Govind V.  
Ghiasuddin, Mr. M.  
Gupta, Mr. K. S.  
Hegde, Sri K. B. Jinaraja.  
Joshi, Mr. N. M.

Kailash Bihari Lall, Mr.  
Krishnamachari, Mr. T. T.  
Kushal Pal Singh, Raja Bahadur.  
Lalljee, Mr. Hooseinbhoy A.  
Piare Lall Kureel, Mr.  
Ram Narayan Singh. Mr.  
Reddiar, Mr. K. Sitarama.  
Sri Prakasa, Mr.  
Srivastava, Mr. Hari Sharan Prasad.  
Subbarayan, Shrinati K. Radha Bai.  
Thakur Singh, Capt.

NOES—21

Ayyangar, Mr. M. Ananthasayanam.  
Bhagchand Soni, Rai Bahadur Sir Seth.  
Daga, Seth Sheodas.  
Daga, Seth Sunder Lall.  
Dalpat Singh, Sardar Bahadur Captain.  
Dam, Mr. Ananga Mohan.  
Das, Pandit Nilakantha.  
Gauri Shankar Singh, Mr.  
Jawahar Singh, Sardar Bahadur Sardar Sir.  
Kamaluddin Ahmad, Shams-ul-Ulema.  
Lahiri Chaudhury, Mr. D. K.

Maitra, Pandit Lakshmi Kanta.  
Mehta, Mr. Jamnadas M.  
Misra, Pandit Shambhudayal.  
Muazzam Sahib Bahadur, Mr. Muhammad.  
Paunde, Mr. Badri Dutt.  
Parma Nand, Bhai.  
Raghubir Narain Singh, Choudhri.  
Ramayan Prasad, Mr.  
Shahban, Khan Bahadur Mian Ghulam Kadir  
Muhammad.  
Sham Lal Lala.

The motion was adopted.

**Maulvi Muhammad Abdul Ghani** (Tirhut Division: Muhammadan): On a point of order, may I crave the indulgence of the Chair to permit the Honourable Members who have given notice of introducing a few Bills, which will take a few minutes only, to introduce their Bills, and then you may be kind enough to take up the other items?

**Mr. Chairman** (Mr. Abdul Qaiyum): I am afraid the business of the day will have to be taken up in the order in which it is laid down.

THE INDIAN EVIDENCE (AMENDMENT) BILL

**Qazi Muhammad Ahmad Kasmi** (Meerut Division: Muhammadan Rural):

Mr. Chairman, I am omitting items 2 and 3 on the agenda and taking up No. 4. I move:

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

**Mr. Chairman** (Mr. Abdul Qaiyum): The question is:

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

The motion was adopted.

THE INDIAN PENAL CODE (AMENDMENT) BILL

(Insertion of new section 93A)

**Qazi Muhammad Ahmad Kasmi** (Meerut Division: Muhammadan Rural):

Sir, I do not move items Nos. 6 and 7 on the agenda. I am moving No. 8. I move:

[Qazi Muhammad Ahmad Kazmi.]

"That the Bill further to amend the Indian Penal Code (*Insertion of new section 93A*) be referred to a Select Committee consisting of the Honourable Sir Asoka Roy, Sir George Spence, Sir Muhammad Yamin Khan, Mr. Munammad Azhar Aii, Mr. K. C. Neogy, Mr. Lalchand Navalrai, Mr. P. J. Griffiths, Sardar Sant Singh, Mr. Amarendra Nath Chattopadhyaya, Mr. Abdul Qaiyum, Mr. Badri Dutt Pande, Mr. Govind V. Deshmukh and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

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

Sir, the object of this Bill, as would appear from the Statement of Objects and Reasons, is to give freedom of publication to speeches in this Honourable House. Inside the House no doubt the speeches delivered are privileged and no action, civil or criminal, can be taken in respect of such speeches. Then we have an official agency publishing these speeches and those speeches as published are also not actionable either criminally or civilly. But the question arises when a Member chooses to publish his own speech, or rather, which is more pertinent, when the press or any newspaper takes up the publication of any Member's speech in his Paper. So far as the present law goes, the protection does not go to the man who publishes that speech. The official record is protected, but if you copy the official record, you are not protected. That is the position. It is rather inconceivable why the official record of the speeches which can be used by any person and which can be read by any person, should be a protected document, while a copy of that document can be held to be actionable either civilly or criminally. This means a very great handicap not only for the Members of this House but also to the public in general, because we as representatives of various parts of India come to this place to give expression to our views, and we want to convey to our constituents what we have said here, and our constituents want to know what we have done for them. But, as soon as one takes up the risky task of letting his constituents know what he said here, it is possible that the Member himself or the Paper who publishes it or the printer who prints the pamphlet may be run in either civilly or criminally. Of course, nobody takes the trouble of going to the civil law in these matters—it is mostly the criminal law and the criminal action that is taken against the person. A case of this kind occurred in this very Assembly. The late Mr. Krishna Kant Malaviya published his speech in his own Paper called the *Abhyudaya* of Allahabad, and that Paper was served with a notice by the Provincial Government and security was demanded. In that connection an adjournment motion was moved in this House by Sardar Sant Singh which had a very chequered career and continued in various ways for some time and ultimately the Honourable President gave a ruling in that connection on the 27th February, 1936. What was said by the President at that time was that under the existing law the question of privilege for publishing the speech did not arise, because there was no convention to that effect in the Assembly itself and the provisions of the law are against it . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member had better read the ruling.

**Qazi Muhammad Ahmad Kazmi**: I will just read a part of it:

"If any action had been taken in any court against Pandit Krishna Kanta Malaviya for publishing his speech in the *Abhyudaya*, he could not plead privilege as a defence to such action, whether such action was taken in a criminal or civil court. But both Mr. Jinnah and Mr. Bhulabhai Desai argued that executive action stands on a different footing to action in a court. But such action would not raise a question of privilege whereas in this case the publication is not privileged. I must further point out that the action of the United Provinces Government was taken under certain statutory powers vested in that Government and if privilege had been made out, that fact would have entailed interpretation of section 67(7) side by side with the Indian Press (Emergency Powers) Act before a decision could be arrived at whether there has been a breach of privilege or not."

This is the extract and what I want to say in this connection is that the privilege of the House was not established so far as the publication by another person is concerned. It was with a view to meet that position that the amendment sought for has been introduced. And it is not only a case of convenience

or expediency for the benefit of the Members of the House. We find that the Government themselves are carrying on propaganda by quoting the speeches of the Honourable Members of the Treasury Benches sometimes in Papers and sometimes on the radio. Every Party must be placed on an equal footing so far as the publication of speeches, either in print or orally, is concerned. There seems to be no reason why, as it happened in some cases, the speeches of the Honourable the Leader of the House or other Members of the Treasury Benches should be broadcast on the radio but the Members of the Opposition were not given equal opportunities in any Paper whatsoever. What is the justification for this? Either Government must abstain from taking liberty to publish their own speeches and carry on propaganda that such and such a Member said so and so; if they do not do so, then they must give an opportunity to the Members of the Opposition to publish what they said in respect of the statements made by Government Members. As a matter of fact, there is a little difficulty so far as the present conditions in India are concerned, because the power vests not in persons who are the elected representatives or who are elected by the elected representatives but nominated by a foreign Government. Any way so far as the present Assembly is concerned, we more or less follow the traditions and conventions that have been established in the Houses of Parliament in England so far as different institutions are concerned. There have been many cases in England in respect of this and I shall read out the summary of the present law in England as given by Halsbury, page 683. Vol. 'Slander and Libel':

"Persons, however, who publish under the direct authority of either House of Parliament have the statutory protection of a summary stay of proceeding, civil or criminal, in respect of reports, papers, votes, or proceedings of either House; while those who, although not acting under the direct authority of either House, publish a correct copy of such reports, papers, votes or proceedings have a somewhat similar statutory protection. Further, those who publish an extract only are placed in the position of having to plead the statute, and to aver and prove that that publication was *bona fide* and without malice. Section 3 and 4. The Parliamentary Papers Act. 1840."

This is the statutory provision enacted so far back as 1840 and the question arises—why should this House or why should the members representing the various communities of India be deprived of their right of propaganda and to let their constituents know what they have been doing in this Assembly. With these few words, I move my motion for reference of the Bill to a Select Committee.

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

"That the Bill further to amend the Indian Penal Code (*Insertion of New Section 93A*) be referred to a Select Committee consisting of the Honourable Sir Asoka Roy, Sir George Spence, Sir Muhammad Yamin Khan, Mr. Muhammad Azhar Ali, Mr. K. C. Neogy, Mr. Lalchand Navalrai, Mr. P. J. Griffiths, Sardar Sant Singh, Mr. Amarendra Nath Chattopadhyaya, Mr. Abdul Qaiyum, Mr. Badri Dutt Pande, Mr. Govind V. Deshmukh and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

**Mr. M. Ananthasayanam Ayyangar** (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th September, 1945."

It is not that I do not agree with the provisions of the Bill. The provisions of the Bill are such that it is unnecessary to elicit public opinion. Four or five Assemblies in this country are functioning at present. The others are dormant at present and it is only for the purpose of enforcing and re-enforcing the arguments in favour of this measure that I want its circulation within the period mentioned, so that we may have the opinions of those legislators also who are competent to give an opinion on this. Sir, I move. (*An Honourable Member*. "You are delaying it.") No; I am not.

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

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th September, 1945."

**Mr. Bhulabhai J. Desai** (Bombay Northern Divisions: Non-Muhammadan Rural): The question came before this House in 1935 when one of the Members

[Mr. Bhulabhai J. Desai.]

of this House who had been duly elected was detained under the provisions of another law and was unable to attend a meeting of this House and a question arose as to whether or not there was such a thing as a privilege of a Member of this House which enabled him in so far as the attendance of the House was concerned, notwithstanding his detention under another law. You might remember that it was then elicited during the course of arguments and the examination of law that there was no privilege of that kind, that the only privilege that any Member of this House had was the statutory privilege to be found in the Government of India Act. It is by reason of that pronouncement, which I respectfully agree is correct, that this particular Bill has become necessary. Under the provisions of sub-section (7) of section 67 of the Government of India Act, there is a very limited privilege attaching to the speeches of Members. Now, Sir, it is a privilege which is much less than what has been obtaining in England, now practically for a century. Section 67 (7) of the Government of India Act, 1935, says:

"Subject to the rules and standing orders, affecting the chamber, there shall be freedom of speech in both chambers of the Indian legislature. No person shall be liable to any proceedings in any court by reason of his speech or vote in either chamber, or by reason of anything contained in any official report of the proceedings of either chamber."

According to the law as it now stands, a Member is privileged and protected only to the extent to which he makes the speech in the House and secondly to the extent to which there is only official report published for all practical purposes by the authority. There is no such word used "by the authority of the House or the rules thereunder". In other words, the position today is this. If any newspaper publishes a report in which there is contained a statement by the Honourable Member which is defamatory to any individual outside the House, then that newspaper is liable today to an action of libel. It happens, fortunately, that the publication of reports of this House, other than official publication, has not been brought up before any court of law. I think it is to the credit of public opinion that people have realised that without the publication of an accurate report of the proceedings of the House and without such publication resulting in any action at law, the proceedings of this House would acquire very limited value. The real value of the publication of the proceedings of this House lies in its education of public opinion by reason of what occurs in the House, though it may appear somewhat anomalous at this stage, the fact remains, and it has always been ruled to that effect, that the mere repetition of alleged libel is no protection merely because somebody else has said it before. The result, therefore, is that a newspaper is liable in the first instance, notwithstanding the fact that the report may be perfectly accurate. Secondly, the individual speaker in this House is equally liable to action at law, assuming it is repeated outside this House by the same person. It rarely happens that the individual probably repeats it, but there is a limited privilege even at common law in England to the extent to which he publishes anything *bona fide* and in public interest and a provision is to be found in one of the exceptions to the Indian Penal Code, the section relating to defamation. Hitherto, fortunately, as I said, no actual proceedings were taken, but I recollect an occasion arose in this House which was referred to by my Honourable friend Qazi Muhammad Ahmad Kazmi. I was not quite able to follow the details which he gave and I think this House should know the circumstances affecting that particular incident. That was with reference to the speech made by Mr. Krishna Kanta Malaviya on a motion before this House relating to the question affecting action which was taken by Government against persons who were generally called by a short name, "terrorists". But before he referred to the matter, Sir Henry Craik, who was then the Home Member referred to them in a language which was not approved of by Mr. Krishna Kanta Malaviya. Sir Henry Craik described them as mean and dastardly and by many other epithets more or less importing the same meaning of condemnation. Mr. Krishna Kanta Malaviya in replying to that matter said that they were misled persons, but in so far as their motives were concerned, you could not distinguish them from the motives of any other

patriotic individual. He mentioned that he had a friend to whom he gave protection, notwithstanding the fact that there was no actual publication like a proclamation of offender, but still he was being shadowed by the police. I recollect on the same occasion, Mr. Krishna Kanta Malaviya being warned by those in authority at the time that if he dared say that outside the House, they would take action against him at law. When the matter was brought to my notice, I thought it my duty to support him in the stand which he took up, because I felt that though in law we have been protected in this House, yet it was extremely ungenerous, if not entirely wrong on the part of the authorities to deal with Mr. Krishna Kanta Malaviya in the manner in which they purported to do. The matter is reported in the proceedings of this House, and I, on the second day followed Mr. Krishna Kanta Malaviya, who, I regret to say, is no more with us, a courageous Member of the House, even though one may differ from him in many other respects, he was a great journalist, yet I thought it was good that if any action was going to be taken against him, it was much better that that was taken against me. Hence it was that referring to the same subject, I made observations perhaps in language a little stronger and in a manner a little more direct than he had done in reference to the manner in which the terrorists were described by one of the Members of Government at that time. I felt then and I feel now, that it is quite necessary that in order that one may not be exposed to any penalties, one should have that freedom of speech not merely confined to the House, but to accurate publication of its report outside or even extracts *bona fide* given by the Member himself. This three-fold protection given by statute in England dates as early as 1840.

I next wish to call attention to the statement on this matter to be found in May's Parliamentary Practice, page 108 referring to this question, over which at one time, as you might remember, there was a great deal of conflict between the Government and the courts on the one hand and sometimes with the Parliament on the other. And it had happened that notwithstanding the fact that the King's Court had punished a man the Parliament had its own privilege to prevent his arrest not merely while he was in the House but a very much wider extension and protection was given to him. It was not considered desirable that a conflict of this kind should continue. I am reading from page 108, and the case which was decided in the year 1868 is the first one of its kind:

"The Lord Chief Justice of England, in a more recent case, further laid it down, that 'if a member publishes his own speech, reflecting upon the character of another person, and omits to publish the rest of the debate, the publication would not be fair, and so would not be privileged.'"

The intention of the decision being that so long as it was a complete publication of the whole debate there was no objection to its being regarded as privileged—

"but that a fair and faithful report of the whole debate would not be actionable."

The privilege which protects debates extends also to reports and other proceedings in Parliament. In the case of *Rex v. Wright*, Mr. Horne Tooke applied for a criminal information against a bookseller for publishing the copy of a report made by a Commons' Committee, which appeared to imply a charge of high treason against Mr. Tooke, after he had been tried for that crime and acquitted. The rule, however, was discharged by the court, partly because the report did not appear to bear the meaning imputed to it, and partly because the court would not regard a proceeding of either House of Parliament as a libel.

By the Parliamentary Papers Act, 1840 (3 & 4 Vict. c. 9) passed in consequence of the decision of the Court of Queen's Bench in the case of *Stockdale v. Hansard*, it was enacted that proceedings criminal or civil, against persons for the publication of papers printed by order of either House of Parliament, shall be immediately stayed, on the production of a certificate, verified by affidavit, to the effect that such publication is by order of either House of Parliament. Proceedings are also to be stayed, if commenced on account of the publication of a copy of a parliamentary paper, upon the verification of the correctness of such copy; and in proceedings commenced for printing any extract from, or abstract of, a parliamentary report or paper, the defendant may give the Report in evidence under the general issue, and prove that his own extract or abstract was published *bona fide* and without malice."

This gives in gist the threefold protection of the provisions of the Parliamentary Act of 1840. It is not my intention to worry the House at this stage by reading out the enactment which is short but of course couched in the language of 1840 which, following the precedents of those days, is extremely involved. But I will take the liberty to state its effect, as far as I am able to

[Mr. Bhu'abhai J. Desai.]

state it, in perhaps plainer words than the statute would convey. In the statute there is a threefold protection. The first is that any report published by the order of the House is completely privileged. The second is that any report that is published by a newspaper or any public body, without necessarily the order of the House, is also completely privileged so long as it is an accurate and complete record. Thirdly, if an individual member publishes an extract of his speech, the extract may be correct but if it is not an accurate and complete picture of the whole debate, in which case the other side would naturally have to be presented also, he has got to prove that the publication was *bona fide* and without malice. That is the threefold protection given by the statute of 1840 to speeches made within the House. And even though the actual form of my Honourable friend Mr. Kazmi's Bill is not sufficiently comprehensive and—if he will permit me to say so—not very accurately expressed, the principle of it is perfectly sound. It is for that reason that I support the circulation motion and I hope that when we have received the reports we shall be able to carry the Bill in the next Session of the Assembly. It is certainly not right that matters of this kind should remain in the doubtful and mobile condition in which they are. And though I confess no action has been taken either by a private individual or at the instance of the Crown, it should be put on a sound footing as a matter of privilege. I do not desire to go beyond the threefold privilege, completely limited as far as the order of the House goes, completely limited as far as any journals are concerned so long as it is an accurate report, and protected in a qualified way so far as an individual extract is concerned, in which case it should be protected only if the publication is *bona fide* and without malice. Sir, I support the motion.

**The Honourable Sir Asoka Roy** (Law Member): The first point, Sir, which I desire to raise on this Bill is that, properly understood, it has nothing to do with parliamentary privilege as such. The law relating to the relevant parliamentary privilege is contained in respect of the Central Legislature in sub-section (7) of section 67 in the 9th Schedule to the Constitution Act, and in respect of the Provincial Legislatures in sub-section (1) of section 71 of that Act. As you, Sir, emphasised in your ruling of the 27th February, 1936, the privilege conferred by Parliament does not attach to the publication otherwise than in an official report of a speech made in an Indian Legislature and it is not open to the Legislature to extend the scope of the relevant parliamentary privilege in this respect. An enlargement of the relevant privilege in the case of Provincial Legislatures could only be effected by those Legislatures in pursuance of sub-section (2) of section 71 of the Constitution Act. Honourable Members will remember the language of sub-section (2) of section 71.

"In other respects the privileges of members of a chamber of the provincial legislature shall be such as may from time to time be defined by an Act of the provincial legislature; and until so defined, shall be such as before the commencement of this part of this Act was enjoyed by members of the Legislative Council of the Province."

In like manner, with part II of the Constitution Act in force, it would be open to the federal legislature to enlarge by legislation, in pursuance of sub-section (2) of section 28, the scope of the privilege [identical with that now conferred by sub-section (7) of section 67 in the Ninth Schedule] which would then be conferred by subsection (1) of section 28.

What this Bill seeks to do is to amend the ordinary criminal law of this country by setting up a general exception with the effect of extinguishing any criminal liability which would arise from the publication otherwise than in an official report of any speech made in the Indian Legislature. It is of course, within the competence of the Indian Legislature to amend the Criminal Law by setting up a general exception of this nature, just as it would be within its competence to set up an exception in favour of publication of speeches made, shall we say, in the Calcutta Zoo or in any other place which the Legislature might see fit to select for special treatment.

I submit, Sir, that there is no case for the conferment of the proposed wholesale immunity in respect of the publication of speeches made in an Indian

Legislature. You will have noticed, Sir, that by his Bill the Mover seeks to have it laid down that 'no publication made in good faith, of any speech or speeches in any Indian Legislature, is an offence'. He does not confine himself to the question of libel or defamation. He seeks to lay down a general immunity for any speech made in any Legislature in regard to the criminal law of the land. I submit, Sir, that no support for this proposal can be drawn from the law in force in the United Kingdom. The position in the United Kingdom was clearly brought out in the well known case of *Wason v. Walter* reported in *Law Reports*. 4 Queen's Bench, at page 73, where it was held—and I shall quote only from the head notes:

"A faithful report in a public newspaper of a debate in either House of Parliament, containing matter disparaging to the character of an individual which had been spoken in the course of the debate, is not actionable at the suit of the person whose character has been called in question. But the publication is privileged on the same principle as an accurate report of proceedings in a court of justice is privileged, viz., that the advantage of publicity to the community at large outweighs any private injury resulting from the publication."

Honourable Members will bear in mind that this was an action for libel and the report in the newspaper concerned was held to be privileged on the same principle as an accurate report of proceedings in a court of justice is privileged. The facts, if I may read the head note, were these:

"The plaintiff presented a petition to the House of Lords, charging a high judicial officer with having, thirty years before, made a statement false to his own knowledge, in order to deceive a committee of the House of Commons, and praying inquiry and the removal of the officer if the charge was found true; a debate ensued on the presentation of the petition, and the charge was utterly refuted:

Held, that this was a subject of great public concern on which a writer in a public newspaper had full right to comment, and the occasion was therefore so far privileged that the comments would not be actionable so long as a jury should think them honest and made in a fair spirit, and such as were justified by the circumstances as disclosed in an accurate report of the debate."

Sir, I might have to quote certain further passages from this Report later on.

Honourable Members will see that the position in the United Kingdom is that no civil action or criminal proceedings will lie for libel in respect of a fair and faithful newspaper report of the proceedings of the Parliament but that the publication in a newspaper of a speech, the publication of which would otherwise render the newspaper liable to prosecution for an offence other than libel, would not be protected by reason of the fact that the speech was made in Parliament and was published in the course of a full and fair report of the proceedings of Parliament.

Sir, not only is there no protection in the United Kingdom from prosecution in respect of the publication of the proceedings of Parliament where such publication would otherwise constitute a public crime, but a proposal to insert a clause with this effect in the Bill, which became the Libel Act, 1843, was rejected and the proposal has never been renewed. I would desire to adopt as my own and to commend to the earnest attention of the House the argument which Lord Brougham used in resisting the insertion of the proposed clause. I am reading, Sir, from page 80 of the Report to which I have already referred. At page 80, in the footnotes, it is stated that Lord Brougham in the course of his speech said that he—

"was decidedly of opinion that parliament could not discharge its higher functions without the most entire freedom of debate. In proportion, however, as there should be an absolute and unrestrained privilege within the walls of parliament for saying whatever any member might think proper to say, restrained only by his sense of duty, so in the same proportion, was the necessity absolute that there should not be given an unrestrained power to the press to publish everything that was said in parliament. There was no fear of the proceedings of parliament not being published. Practically, therefore, there was no necessity for such provision as this. In the course of all his experience at the bar, he never remembered a single prosecution or action for the publication of a speech delivered in parliament. In the case of *Wright*, publisher, reported in 6 Term Reports, an action was brought by *Horne Tooke* against *Wright* for publishing a report of proceedings in parliament which reflected upon *Mr. Horne Tooke*. The Court of King's Bench held that it was a privileged publication, because it was good for parliament itself and for the country that the publication should be made. But the Court never held, on the contrary the rule was the other way, that any indemnity whatever should be given to the publisher for printing everything that was said

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in parliament. It was the only check upon members of Parliament that the publication should rest on the responsibility of the publisher." . . . . .

The proposed clause was negatived.

**Mr. President** (The Honourable Sir Abdur Rahim): Does the Honourable Member propose to finish his speech now?

**The Honourable Sir Asoka Roy:** I would like to go on, Sir.

**Mr. President** (The Honourable Sir Abdur Rahim): Then, I adjourn the House till 11 O'Clock tomorrow.

The Assembly then adjourned till Eleven of the Clock on Friday, the 2nd March, 1945.