

31st January, 1922

THE

LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

SECOND SESSION

OF THE

LEGISLATIVE ASSEMBLY, 1922



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LEGISLATIVE ASSEMBLY.

Tuesday, 31st January, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

QUESTIONS AND ANSWERS.

RAILWAY CONCESSIONS TO POSTAL DEPARTMENTS AND VICE VERSA.

123. * **Rai G. C. Nag Bahadur**: Will the Government kindly state whether the Postal Department is granted any railway concessions ; and, if so, what those concessions are, what is the total amount paid by that Department during the last year for which figures may be available, and whether the Postal Department grants any concessions to the railways by way of reciprocity ?

Colonel Sir S. D'A. Crookshank: Payments made to Railways are governed by their contracts with Government. There are no concessions. The other questions do not, therefore, arise.

TRANSFER OF ACCOUNTANT GENERAL, RAILWAYS, AND STAFF TO STATE RAILWAYS CADRE.

124. * **Rai G. C. Nag Bahadur**: With reference to the concluding sentence of the answer given on 22nd September, 1921, to Question No. 577, will the Honourable Finance Member kindly state whether the Accountant General, Railways, and his staff have been transferred from the cadre of the Finance Department to that of the Superior Establishment of State Railways, whether in anticipation of the recommendations of the Indian Railway Committee in that behalf or otherwise ; and, if so, from what date, and whether permanently or temporarily ?

The Honourable Sir Malcolm Hailey: The Accountant General, Railways, and his staff have not been transferred from the cadre of the Finance Department.

MEMORIAL FROM THE STAFF OF THE RAILWAY DEPARTMENT.

125. * **Rai G. C. Nag Bahadur** : With reference to the answer given on 22nd September, 1921, to my Question No. 578, will Government kindly say if a reply has been given to the memorial from the staff of the Railway Department, and, if so, will they kindly place on the table a copy of the memorial and of the reply thereto ?

Colonel W. D. Waghorn: A reply has been sent to the Memorialists on the lines of the answer referred to. The Government of India do not propose to place the memorial and the answer thereto on the table.

ROLLING STOCK FOR PRIVATE RAILWAYS.

126. * **Rai G. C. Nag Bahadur** : Will the Government kindly lay on the table a statement shewing railways of private ownership for which rolling stock is supplied by the working agency, their gauge, mileage and the basis on which charges are levied for the use of such rolling stock and total charges attributable on that basis to such worked lines and the working lines respectively, say, for the year 1919-20 ?

Colonel W. D. Waghorn : A statement showing the private-owned lines worked by other Railway Administrations is being sent to the Honourable Member. The information regarding the mileage, gauge and the basis on which charges are levied for the use of rolling-stock is available in the Railway Board's publication entitled the 'History of Indian Railways, Constructed and in Progress', the latest copy of which, corrected up to 31st March, 1920, is available in the library of the Legislative Assembly.

INDIAN MEDICAL MEN TO STUDY SUN-LIGHT TREATMENT OF TUBERCULOSIS AT COPENHAGEN.

127. * **Rai G. C. Nag Bahadur** : (a) Has attention of the Government been drawn to the Sun-light treatment of tuberculosis and its great success in the hands of Dr. Rollier at Leysin in the Swiss Alps and at the famous medical Light Institute of Copenhagen ?

(b) Having regard to the fact that the scourge of consumption is so dreadful in India, especially among its female population, will the Government consider the desirability of deputing some capable Indian Medical men for a post-graduate course to the Light Institute at Copenhagen ?

Mr. H. Sharp : (a) The Government of India have seen accounts of the Sun-light treatment of tuberculosis as carried out by Dr. Rollier. Dr. Rollier's treatment is applicable to the surgical forms of tuberculosis which, though commonly met with in the north and west of India, are relatively unimportant as compared with pulmonary tuberculosis.

(b) A replica of the Light Institute at Copenhagen was opened by Queen Alexandra at the London Hospital in 1908, since which date instructional classes in Light treatment of tubercular and other diseases have been held which have been attended by many Indian Medical men and officers of the Indian Medical Service.

THROUGH SERVICE BETWEEN HYDERABAD AND AHMEDABAD.

128. * **Mr. W. M. Hussanally** : (a) With reference to Answer No. 279, dated 19th September, 1921, will the Government please state if the through service between Hyderabad and Ahmedabad has been established ?

(b) If not, will Government please expedite ?

Colonel W. D. Waghorn : (a) The through service between Hyderabad and Ahmedabad has not been established yet, owing to suitable coaches not being available on the Railways concerned. Steps are being taken to build the necessary stock.

(b) As a temporary measure, it is proposed to run a through bogie 1st and 2nd class composite carriage between Hyderabad and Ahmedabad from April next.

CIVILIANS WHO RETIRED ON INTRODUCTION OF REFORMS.

129. * **Mr. Syed Nabi Hadi** : Will the Government be pleased to give the names of those Civilians who retired from Indian Civil Service owing to the introduction of the new Reforms together with the name of the Province to which they were attached ?

The Honourable Sir William Vincent : Government are not prepared to furnish the information asked for.

OVERSEAS RAILWAY ALLOWANCE TO OFFICERS RECRUITED IN INDIA.

130. * **Mr. Sambanda Mudaliar** : (1) Will Government be pleased to state whether paragraph 2 of the Railway Board's Circular No. 1506-E.—19, dated 3rd February, 1921, published in the Gazette of India, Part I, of 12th February, 1921, allowing overseas allowance to all officers recruited in India who were in service on 3rd February, 1921, irrespective of race is applicable in the case of officers employed in State Railways managed by Companies ?

(2) Whether Anglo-Indian officers (Eurasians) employed in Bombay, Baroda and Central India Railway are allowed to draw the overseas allowance in pursuance of the said circular ?

(3) Whether the Indian officers employed in Bombay, Baroda and Central India Railway are given this concession of overseas allowance ? If not, why not ?

Colonel W. D. Waghorn : (1) The orders in question are not necessarily applicable to officers in the employ of Railway Companies. It is entirely optional with Companies whether they adopt the rules in part or in full or not at all.

(2) and (3). It is understood that certain Anglo-Indian officers, already in the service, were admitted to Overseas Allowance and that this concession was not extended to Indian officers, the reason being that it had not previously been the practice to differentiate between Anglo-Indian and European officers in the matter of pay. It is believed that, with effect from 1st October, 1920, Overseas Allowance has been confined for all future entrants, to officers of Overseas domicile.

Mr. Sambanda Mudaliar : Has the Government taken into consideration the dissatisfaction that obtains among the employees in regard to this matter, and will the Government be pleased to set it right by giving the necessary instructions ?

Colonel W. D. Waghorn : I have explained to the Honourable Member that this is a matter in which the Companies are free to make their own regulations.

RESOLUTION RE SUKKUR BARRAGE.

131. * **Mr. S. C. Shahani** : Will the Government be pleased to state what steps, if any, have been taken to give effect to the Resolution of the Assembly in September last about the Sukkur Barrage ?

The Honourable Sir Malcolm Hailey: I would refer the Honourable Member to my speech in the Simla Session on his Resolution. He then accepted the interpretation I put on it which was that the Government of India would do nothing to hamper the scheme, but, as far as lay in their power, would do everything to assist its early completion; I made it quite clear that the money could not be provided from the resources of the Central Government. The Government of Bombay are still considering the financial position and the possibility of going on with the project without the aid from central finances which they desire and which unfortunately we cannot give.

EXPENDITURE UNDER RESIDENTIAL HEAD IN NEW DELHI.

132. * **Mr. W. M. Hussanally:** What has been the total cost of:

- (a) the construction of all buildings rented to Government servants in New Delhi, including drainage, electricity, telephones and water, etc.;
- (b) all land under such buildings;
- (c) all furniture and other appliances supplied;
- (d) gross rental realized annually;
- (e) the annual cost of maintenance, supervision and management of the estate?
- (f) the cost of arboriculture and horticulture;
- (g) any other charges;
- (h) what is the nett percentage of profits on the investments, if any?

Colonel Sir S. D'A. Crookshank: (a) to (h). The collection of the information called for will involve an unreasonable amount of labour and time which, it is thought, the Honourable Member will realize, would be incommensurate with the result to be obtained.

UNSTARRED QUESTIONS AND ANSWERS.

DISCONTENT IN THE KARACHI PREVENTIVE SERVICE.

216. **Mr. Alli Buksh Muhammad Hussain:** Are Government prepared to consider the whole question of pay, prospects, house rent and clothing of officers of the Karachi Preventive Service, in consequence of the general discontent now prevailing among them?

The Honourable Mr. C. A. Innes: No. The pay and prospects of the superior preventive staff at Karachi were revised as recently as August, 1920, and orders sanctioning the revision of the pay and prospects of the subordinate staff are under issue.

STATEMENT OF COMMITTEES DURING THE LAST FIVE YEARS.

217. **Mr. B. H. Jatkar:** Will the Government kindly lay on the table a statement showing the Committees appointed by Government during the last 5 years, the dates of receipt of their reports by Government, the dates of their transmission by the Secretary of State or Government of India, respectively, to the Government of India or the Secretary of State, and the dates of their publication?

The Honourable Sir William Vincent: Government do not consider that the matter is of such general public interest that they would be justified in undertaking the labour involved in the collection of the material for the preparation of the statements asked for.

PROMOTIONS FROM SUBORDINATE ESTABLISHMENT TO HIGH OFFICES IN THE GOVERNMENT OF INDIA SECRETARIAT.

218. **Mr. B. H. Jatkar:** Will the Government kindly lay on the table a statement showing the names of persons who were during the last 30 years promoted, whether temporarily or substantively, from the office establishment of each of the different Secretariats of the Government of India to positions higher than that of Registrars, and the highest appointments they rose to?

The Honourable Sir William Vincent: The collection of the information would entail great labour, which Government are not prepared to undertake.

OPENING OF HYDERABAD AND TANDO MD. KHAN LINE.

219. **Mr. W. M. Hussanally:** (a) Is it a fact that the work of re-laying rails between Hyderabad and Tando Md. Khan on the Hyderabad Badin Railway has been finished?

(b) If so, will Government order the line to be opened to goods and passenger traffic?

Colonel W. D. Waghorn: (a) The answer is in the affirmative.

(b) The section of the line in question cannot be opened for passenger traffic until it has been inspected and passed by the Senior Government Inspector of Railways; moreover, if this section were opened to passenger traffic relaying of the line beyond Tando Md. Khan would be greatly hindered. This section has, however, been opened for outwards goods booking from 9th January, 1922.

ANNUAL COST OF MAINTENANCE AND INCOME OF NEW DELHI.

* 220. **Mr. W. M. Hussanally:** With reference to answer to (b) and (c) of Question No. 281, dated 14th September, is it that the annual cost of maintenance of New Delhi is 9.1 lakhs, whereas the annual income is only 3 lakhs?

Colonel Sir S. D'A. Crookshank: The reply is in the negative. As the project is still under construction, there is at present no definite annual maintenance and income in the sense apparently meant by the Honourable Member, nor is it possible to frame an estimate of maintenance and income at this stage.

ANNUAL INCOME AND EXPENDITURE OF THE IMPERIAL DELHI MUNICIPAL COMMITTEE.

221. **Mr. W. M. Hussanally:** (a) What is the annual income and expenditure of the Imperial Delhi Municipal Committee?

(b) What are its sources of revenue?

(c) What are the heads of expenditure?

Mr. H. Sharp : (a) The figures for the last completed year, *viz.*, 1919-20, are :

| | Rs. |
|--|-------|
| Income | 3,851 |
| Expenditure | 3,893 |
| (b) The sources of revenue were : | |
| | Rs. |
| Water tax | 102 |
| Fines | 2,227 |
| Grant-in-aid | 1,500 |
| Miscellaneous | 22 |
| Total | 3,851 |

(c) The heads of expenditure were :

| | Rs. |
|-------------------------|-------|
| Water tax | 102 |
| Education | 1,801 |
| Cattle pounds | 802 |
| Conservancy | 230 |
| Vaccination | 533 |
| Miscellaneous | 425 |
| Total | 3,893 |

GOVERNMENT OF INDIA TO ASSIST IN FINANCING THE SUKKUR BARRAGE PROJECT.

222. **Mr. W. M. Hussanally :** (a) Has Government received representation from the Bombay Legislative Council *re* assisting the Bombay Government in financing the Sukkur Barrage project ?

(b) If so, do Government propose to grant their prayer ?

(c) Will Government please expedite the commencement of the construction of B arrage ?

The Honourable Sir Malcolm Hailey : The Government of India have seen a copy of the Resolution passed by the Bombay Legislative Council in October last. As I pointed out in my speech on Mr. Shahani's Resolution on the subject at the Simla Session of this House, irrigation is, under the Reforms scheme, a provincial subject, and the Central Government can accept no financial liability for this project. At the same time, I made it clear that, so far as the Government of India are concerned, they would certainly do nothing to hamper the execution of the scheme, but, on the contrary, so far as lies in the power of the various Departments, they would do everything to assist its early execution.

PROMOTION OF KEY INDUSTRIES (IRON AND PAPER) IN INDIA.

223. **Mr. J. N. Mukherjee :** (a) Will the Government be pleased to state what industries in this country are regarded by them as key industries and what practical steps, if any, have been taken by them during the year 1921 for the preservation or promotion of such industries ?

(b) Have the Government taken any steps for such purposes specially with regard to iron and the manufacture of paper in this country ?

Mr. A. C. Chatterjee: (a) The Honourable Member is referred to the Chapter in the Report of the Indian Industries Commission on the industrial deficiencies of India. The development of industries is now mainly a provincial and a transferred subject and information regarding the progress made in meeting these deficiencies will be found in the Administration Reports of the provincial departments of Industries and in the periodical publications of the Industries Department of the Government of India. Attention is also invited to the communiqué recently issued regarding the manufacture of locomotives in India.

(b) No special steps were taken during the year 1921 by the Central Government in connection with the promotion of the iron industry, but the Honourable Member is no doubt aware that large standing orders for steel rails and steel plates have been placed with the largest Iron and Steel Company in India. He is doubtless also aware that important steps in the direction of the development of the manufacture of iron and steel by private enterprise may be expected in the near future. As regards paper, the Honourable Member is referred to the answers given to Beohar Raghbir Sinha on 21st September, 1921, and to Mr. P. L. Misra on the 28th September, 1921.

PROMOTION OF THE PAPER MANUFACTURE INDUSTRY IN INDIA.

224. **Mr. J. N. Mukherjee:** (a) Will the Government be pleased to state whether having regard to the evidence recently adduced before the Fiscal Commission, they propose to take immediate steps with a view to save the paper manufacture industry in this country from gradual extinction with which it is threatened by reason of foreign competition and other impediments in its way, and generally to keep the industry in a permanently workable condition in this country?

(b) If so, what action do the Government intend to take in the near future in order to promote the industry (paper manufacture), and, if possible, without waiting for the final report of the Fiscal Commission on the matter?

The Honourable Mr. C. A. Innes: The Government of India do not consider that they would be justified in anticipating the findings of the Fiscal Commission on the merits of evidence now under its consideration.

REDUCTION OF THE MADRAS GOVERNOR'S EXECUTIVE COUNCIL TO THREE.

225. **Bai Bahadur P. V. Srinivasa Rao:** Will the Government be pleased to state what action it has taken on the Resolution of the Madras Legislative Council recommending the reduction of the number of the Governor's Executive Council from four to three?

The Honourable Sir William Vincent: The Resolution is under the consideration of the Government of India.

ADDITIONAL EXPENDITURE DUE TO ENHANCED PAY AND PENSION.

226. **Lala Girdharilal Agarwala:** What is the total additional annual expenditure due to enhancement of pay and pension of Government servants and how much of it goes to Indians?

The Honourable Sir Malcolm Hailey : I assume that the Honourable Member refers to increases given under the general revision which commenced in 1919. It is not possible to give exact figures without a considerable expenditure of time and labour, but, according to such information as is available, the total enhancement of the pay and pension of Government servants in the Civil Departments whether paid from central or provincial revenues is approximately Rs. 90 lakhs for imperial services, 60 lakhs for provincial services and considerably over 9 crores for the subordinate establishments. I cannot say how much of the increase given to imperial services has gone to Indians, but they must have received practically the whole of the increase in the provincial and subordinate services.

MILITARY OFFICERS AND LOANS FROM CONTRACTORS.

227. **Lala Girdharilal Agarwala :** Are Military officers who have anything to do with contractors in their official capacity, allowed to have private dealing and to borrow money from contractors or any members of their family or firm whether in their own name or in the name of their wife or children ?

Sir Godfrey Fell : The answer is in the negative.

REVISION OF LAND ASSESSMENT.

228. **Baba Ujagar Singh Bedi :** (a) Will the Government be pleased to state whether the land assessment policy is directed by the Central Government, or by the Provincial Governments ?

b) Will the Government be pleased to state the policy in either case and show whether this policy is the same in different provinces or not ?

(c) Will the Government be pleased to ask the Provincial Governments to consider the question of land assessment with a view to remove the defects in it ?

Mr. J. Hullah : (a) Land Revenue policy is directed by the Provincial Governments, but the Central Government has power of control. The Honourable Member is referred, in particular, to Rule 2 (e) of the Reservation of Bills Rules.

(b) The policy is explained in the Government of India's Resolution of the 16th January, 1902. Since this Resolution was issued, there has been no material change of policy.

(c) The Government of India do not understand to what defects the Honourable Member refers, but since Land Revenue Administration is primarily the concern of the Provincial Governments, they do not propose to initiate any modifications of policy.

REDUCTION OF ARMY OFFICERS IN INDIA.

229. **Sir Deva Prasad Sarvadhikary :** Will the Government be pleased to state :

(a) Whether there are in India more Army officers than are required for normal requirements ; and, if so, what is their number ?

(b) What is the amount of expenses incurred for retaining their service and for all incidental expenses and charges ?

- (c) Whether there has been a proposal for discontinuing such service?
- (d) If so, when and on what terms is their service to be discontinued?
- (e) The reasons for not giving effect to the proposals for discontinuance of such service earlier?
- (f) If there have been such proposals, when are they likely to be carried out?
- (g) The amount of costs incurred on account of not having the proposals carried out when they were sanctioned?

Sir Godfrey Fell : (a) Yes. As an inevitable result of the recruitment of additional officers for service with the expanded Indian Army during the war, there are now many officers surplus to the normal requirements of the Indian Army calculated on the basis of its peace organisation. The number is estimated at between 2,000 and 2,500.

(b) It is impossible to give an exactly reliable figure. All the surplus officers are junior officers of the rank either of Lieutenant or Captain. The average cost of a Lieutenant of the Indian Army may be taken at Rs. 612 a month, and that of a Captain at Rs. 800 a month. It is impossible to give any figure for incidental charges, such as travelling allowance, since this must necessarily vary. A very considerable number of these officers have been, and are still, employed and paid by His Majesty's Government, being attached to the Indian troops still serving in Mesopotamia, Palestine and other overseas areas; while other surplus officers have been required up till the present in connection with the operations in Waziristan.

(c), (d), (e) and (f). Proposals for discontinuing the services of these surplus officers have been the subject of most anxious consideration by the Government of India for some months past. The issue is a very important one, and the decision as to what compensation should be given to young officers, who joined the army to serve the Empire during the war and who have now to lose their chosen career, is one which cannot be taken lightly. Following the principle of the liability of India for charges connected with the war, which has been enforced throughout, the Government of India have claimed that the cost of compensating these surplus officers must be shared by His Majesty's Government, who have had to be consulted in the matter. This has entailed some delay and a final decision has not yet been reached. It is impossible therefore to announce at the moment the terms which will be offered, or to say how soon the scheme will be put into effect; but the final orders of the Secretary of State are expected very shortly.

(g) As the proposals have not yet been sanctioned, this part of the question does not arise.

REORGANISATION OF RAILWAY DEPARTMENT.

230. **Rai G. C. Nag Bahadur :** Has the consideration of the reorganisation of the Railway Department, as recommended by the Indian Railway Committee in their Report of August, 1921, yet been taken up by Government; and, if so, do Government expect to be able to place their proposals in connection therewith before the Legislative Assembly during the current Session?

Colonel W. D. Waghorn: The reply to the first part of the question is in the affirmative. The Report covers a great many important questions, and it is impossible to say at present to what extent, if any, Government will be in a position to place their proposals before the Assembly in the current Session.

BRANCH LINES OF RAILWAYS BUILT UNDER GUARANTEE TERMS.

231. **Rai G. C. Nag Bahadur:** Will Government kindly lay on the table a statement shewing the branch lines of railway built under guarantee terms, the interest guaranteed, the return anticipated, when construction was sanctioned and the payments, if any, made up to the end of 1919-20 to make up the guaranteed interest?

Colonel W. D. Waghorn: A statement showing (i) the names of branch line railways built under guarantee terms, (ii) interest guaranteed, (iii) return anticipated when construction was sanctioned and (iv) guaranteed interest paid up to the end of 1919-20 is laid on the table for the Honourable Member's information.

| Name of branch line railway built under guarantee terms. | Interest guaranteed. | Return anticipated when construction was sanctioned. | Guaranteed interest paid up to end of 1919-20. |
|--|---|--|--|
| 1 | 2 | 3 | 4 |
| | | | Rs. |
| Ahmadpur-Katwa . | 3½ per cent. | 4·6 per cent. | 1,59,015 |
| Arakan Light Railway. | A guarantee of 3½ per cent. per annum on the approved paid up capital of the Company by the Government of India and an additional 1 per cent. by the Burma Government for the first ten years since the opening of the railway and another one per cent. from the Arakan Flotilla Company, Limited. | Information not obtainable. | 1,21,508 |
| Bankura-Damoodar River. | 3½ per cent. | 5 per cent. | 2,20,941 |
| Burdwan-Katwa . | Do. | 4·84 per cent. | 1,12,403 |
| Kalighat-Falta . | Do. | 6 per cent. | Nil. |
| Hardwar-Dehra . | 3 per cent. When the Company does not receive the minimum dividend of 3 per cent. from the earnings of the line, the sum of Rs. 3,600 for such year is paid by Government for or towards management and office expenses. | 5 per cent. | Nil. |
| Dasghara-Jamalpur-ganj. | 3½ per cent. | 5·33 per cent. | 2,017 |

GOVERNMENT CONTRIBUTION TO RAILWAY CONCESSIONS TO ARMY OFFICERS.

232. **Mr. N. M. Joshi** : With reference to the answer given on 22nd September, 1921, to my question regarding railway concessions to Army officers, will Government kindly state whether a portion of the loss referred to is shared by Government through the division of profits ; and, if so, in what ratio approximately for the whole of India and whether the British Government similarly shares the loss with the railway administration in the United Kingdom ?

Sir Godfrey Fell : The answer to the first part of the question is in the affirmative. As regards the second part, Government are unable to work out any figures, even approximately, as the ratios vary in accordance with the provisions of the contracts with the Companies.

The Government of India have no information with regard to the third part of the Honourable Member's question.

FREQUENCY OF MACHINERY ACCIDENTS ON THE GREAT INDIAN PENINSULA RAILWAY.

233. **Mr. N. M. Joshi** : Will Government be pleased to state whether it is a fact that of all the railways in India, the Great Indian Peninsula Railway shows the largest number of accidents under the heads 'bursting of tubes, etc., of engines' and 'failure of machinery, springs, etc., of engines, axles, brake apparatus and couplings' ; and, if so, whether any inquiry has been made with a view to ascertaining the causes of these failures and finding out remedies therefor ?

Colonel W. D. Waghorn : It is a fact that the largest number of accidents under the heads mentioned by the Honourable Member has occurred on the Great Indian Peninsula Railway in 1919-20. The comparatively large number of accidents under these heads may, to some extent, be explained by the fact that the Great Indian Peninsula Railway has to work heavy traffic over *ghat* sections. The Agent has been asked to investigate this matter with a view to remedies being suggested.

RAILWAY TRAFFIC STATISTICS FOR 1895, 1905 AND 1915.

234. **Mr. N. M. Joshi** : Will Government kindly state separately for the years 1895, 1905, and 1915,

- (a) the total number of passengers carried by railways ;
- (b) the total weight of goods carried by railways ;
- (c) the total number of carriages on the railways ;
- (d) the total number of wagons on the railways ?

Colonel W. D. Waghorn : A statement showing separately (a) the total number of passengers, (b) the total tonnage of goods carried and (c) the total number of coaching and (d) goods vehicles on the Indian Railways during the years 1895, 1905 and 1915-16 is placed on the table for the Honourable Member's information.

Statement showing (a) the total number of passengers, (b) the total tonnage of goods carried on the Indian Railways during the years 1895, 1905 and 1915-16, and (c) the number of coaching vehicles and (d) the goods wagons at the end of those years.

| Year. | Passengers. | Goods. | COACHING VEHICLES. | GOODS VEHICLES. | REMARKS. |
|--------------------------------|--------------------|---------------------|----------------------------|-----------------|---|
| | | | In terms of four-wheelers. | | |
| 1895. (January to December) | No. 153,081,000 | Tons. 33,628,000 | 13,866* | 80,102* | *Excluding 2'-6" and 2'-0" gauge railways for which information is not available. |
| 1905. (January to December) | 2,8,157,000 | 54,936,000 | 22,143 | 121,135 | |
| 1915-16. (April to March) | 464,381,000 | 82,499,000 | 31,199 | 198,139 | |

INCIDENCE OF FINES AND BONUS FORFEITED ON INDIAN RAILWAYS.

235. **Mr. N. M. Joshi:** With reference to Appendix 26 of the Railway Administration Report for 1919-20, will Government say why the incidence, per head, of fines and bonus forfeited is as high as 0-10-3 on the Burma Railways, 0-12-9 on the Assam-Bengal Railway, Re. 1-0-9 on the Bengal Nagpur Railway, Rs. 1-2-2 on the Rohilkund and Kumaon Railway and Rs. 2-3-8 on the Jodhpur-Bikaner Railway?

Colonel W. D. Waghorn: The differences pointed out by the Honourable Member are correct and are due to the fact that the infliction of fines and the forfeiture of bonus are matters within the discretion of Railway Administrations and the circumstances in which these are ordered may and do vary on the different lines.

No inference of a general nature can profitably be drawn from the differences pointed out.

DISTRIBUTION OF DISBURSEMENTS FROM FINE FUNDS ON INDIAN RAILWAYS.

236. **Mr. N. M. Joshi:** With reference to Appendix 26 to the Railway Administration Report for 1919-20, will Government lay on the table, when available :

- a statement showing the distribution between European and Indian schools of the disbursements from fine funds on the East Indian and the North-Western Railways;
- a statement showing the distribution between European and Indian recreation clubs of the disbursements on the East Indian and Great Indian Peninsula Railways;
- a statement showing the details of the disbursements under the head 'Miscellaneous' against the East Indian, the Great Indian Peninsula and the Bengal and North-Western Railways;
- a statement showing the amount recovered as fine from each of the three races mentioned in Appendix 24 and their numbers on the East Indian, the Great Indian Peninsula and the Bengal and North-Western Railways; and

- (e) a statement showing the amount recovered as fine from each of the three races mentioned in Appendix 24 and their numbers for the entire railways in India ?

Colonel W. D. Waghorn : The information asked for in items (a) to (c) of the Honourable Member's question has been called for from Railway Administrations and will be supplied to him when received.

As regards items (d) and (e), the information is not available with the Government of India or in the offices of the Railway Administrations concerned. Under the circumstances, Government do not consider that this matter is of sufficient public interest to warrant the expenditure of time and labour which would be involved in its collection.

ARRANGEMENT OF GOVERNMENT BUSINESS.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : Sir, with your permission, may I ask how it is that in the notice for to-morrow's business I do not find the Emigration Bill ? I thought we adjourned it to the next official day.

The Honourable Sir William Vincent (Home Member) : The Honourable Member is aware that we have fixed to-morrow by request of many non-official Members for certain Resolutions in which, I was told, the Assembly was much interested. It would have been impossible to get those Resolutions in to-morrow if the Emigration Bill had also been fixed for the same date. I understand, however, that the Emigration Bill will come on at a very early date in the future. The arrangement of Government Business on an official day is, I think, within the competence of Government.

Rao Bahadur T. Rangachariar : Sir, this House adjourned that Bill to the next official day, which was within their competence, and I don't know if the Government can interfere with that arrangement.

The Honourable Sir William Vincent : The point I want to make, Sir, is that it is within the competence of our authority to put on business on any official day that we like, and I doubt if the House has power to fix the order of business on any official day. In this particular case, however, I took the course I did merely to meet the wishes of non-official Members. The business for the first was arranged after consultation with a number of non-officials ; many Honourable Members are aware of this, and, when Government goes out of its way to make an arrangement of that kind, it is a little unfair that our action should immediately afterwards be challenged.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : Sir, I beg to move :

' That the Bill to further amend the Code of Criminal Procedure, 1898, be referred to a Select Committee consisting of the Honourable Sir William Vincent, the Honourable Dr. T. B. Sapru, Rao Bahadur C. Krishnaaswamy Rao, Mr. Harshandrai Vishindas, Rao Bahadur C. S. Subrahmanayam, Mr. J. Chaudhuri and myself.'

[Rao Bahadur T. Rangachariar.]

This is the Bill I introduced the other day, dealing with the question of the rights of the High Courts in regard to issuing writs under section 491 of the Code. I am glad to note that, among our European friends in the Assembly and outside, there is absolutely no opposition to this distinction between Europeans and Indians which exists now in the Criminal Procedure Code being removed. It is one of those provisions about which there is always a unanimity of opinion that this distinction should not exist. As I have stated already, there are two principles we have in view. One is to remove this distinction between two classes of His Majesty's subjects. The other is to extend this power to issue writs not only to the three Presidency High Courts but also to all other High Courts as regards Indian subjects. I do not think, Sir, that many words are needed to commend this proposition to the House. For the Select Committee I have chosen those Members who are already members of the Select Committee on the Bill to amend the Code of Criminal Procedure. I beg to commend this motion to the acceptance of the House.

The Honourable Sir William Vincent (Home Member) : Sir, this Bill really seeks to extend the provisions of section 491 of the Code of Criminal Procedure to the whole of British India. The principle underlying the motion is based on the fact that in England the Habeas Corpus Act runs throughout the British Isles and indeed beyond. It is, however, often assumed of course that the various Habeas Corpus Acts enlarged the liberties of the British subject in this respect. It is probably more correct to say that they prescribed a procedure by which certain rights could be secured. But, in any case, the law is most valuable and probably a much greater guarantee of the liberty of the subject than those principles which we frequently see enunciated at the commencement of European Constitutions.

The powers of the High Courts are at present limited and the reasons for those limitations are, I think, to be found in the history of the origin of those Courts. We know, of course, that the old Supreme Court's jurisdiction was limited in various ways.

I should like to draw the attention of the House to the fact, however, that the Code at present contains other valuable provisions on this subject which, I am sure, that the Honourable the Mover has not overlooked in this connection. There is, for instance, section 100 which is of great importance. At the same time, from all I have heard, there seems to be a general feeling in favour of the extension of the provisions of the present section 491 and, though, for some reasons, I should have preferred that this Bill might have been postponed until we had before us the results of the deliberations of the Committee now sitting to consider the question of racial distinctions in the Code, yet, I do not think that Government would in any way be justified in refusing their support to this Bill on which there is very little, if any, difference of opinion.

Perhaps this is more desirable in that, sections 456 to 458 of the Code give more protection to Europeans than is given by section 491 to Indians. In these circumstances, the Government are quite prepared to accept this motion and to consider the proposals of the Honourable Member favourably.

Mr. J. N. Mukherjee (Calcutta Suburbs : Non-Muhammadan Urban) : In support of the motion to refer this Bill to the Select Committee I should

like to say a few words. As has been stated by the Honourable the Home Member, there will not be much difference of opinion on the matter of this Bill. All that has to be considered now is, whether the Bill as drafted will ensure the application of the principle of Habeas Corpus throughout the whole of India; and, in this connection, the Select Committee might consider the language of the Bill itself. What the Bill proposes to do in achieving its object, is to drop the qualifying words 'at Fort William, Madras and Bombay' after the words 'High Courts of Judicature' in section 491 of the Code of Criminal Procedure. It would be just as well to consider whether the words 'High Courts of Judicature', having been retained in the Bill should stand or not; because the expression 'High Courts of Judicature' has not been defined in the Code and though the expression 'High Court' has been. Naturally enough, the words so retained may mean only High Courts in British India and not Chief Courts or Courts of Judicial Commissioners, and, if these words be left to stand as they are, it would be a matter for consideration whether the words 'Courts of Judicial Commissioners and Chief Courts' should not also be specifically mentioned in the section, in order that the application throughout India of the principle of this Bill might be ensured without doubt. As the House is aware, the expression 'High Court' has been defined in section 4 and in certain other places in the Criminal Procedure Code. In other words, apart from the general definition in section 4, clause (j), the words 'High Court' have also been defined for the purposes of a particular chapter of the Code. If the House will refer to section 266, it will find that it gives a special definition for the purposes of Chapter XXIII. My object in inviting the attention of the House to these little points is that the Bill may be so considered by the Select Committee that its principle may be applied without any exception throughout the whole of India, and, if necessary, the language of the Bill may be so altered as to make this possible. That is all I have to say.

Mr. President: The question is:

'That the Bill to further amend the Code of Criminal Procedure, 1898, be referred to a Select Committee consisting of the Honourable Sir William Vincent, the Honourable Dr. T. B. Sapru, Rao Bahadur C. Krishnaswamy Rao, Mr. Harohandrai Vishindas, Rao Bahadur C. S. Subrahmanayam, Mr. J. Chaudhuri and the Mover.'

The motion was adopted.

THE LAND ACQUISITION (AMENDMENT) BILL.

Mr. J. Ramayya Pantulu (Godavari *cum* Kistna : Non-Muhammadan Rural) : Sir, I beg to move for leave to introduce :

'A Bill further to amend the Land Acquisition Act, 1894.'

As I have explained in the Statement of Objects and Reasons, the main aim of this amendment is to provide a statutory remedy against improper or unlawful acquisition of land. Section 4 of the Act empowers the Local Government to publish a preliminary notification to the effect that a certain piece of land is required for a public purpose. This notification is intended to enable Government to enter upon the land and survey and take levels and to do everything to satisfy itself that the land is suitable for the purpose for which it is intended to be acquired. After that notification is published and

[Mr. J. Ramayya Pantulu.]

after the preliminary investigation is made, section 6 of the Act empowers Government to publish a declaration to the effect that the land is required for a public purpose and clause (3) of the section says :

'The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a company, as the case may be, and, after making such declaration the Local Government may acquire the land in manner hereinafter appearing.'

Then we come to section 9 which says :

'The Collector shall then cause public notice to be given at convenient places on or near the land, that claims to compensation for all interests in such land may be made to him.'

Then clause (2) says :

'Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests and their objections, if any, to the measurements made under section 8. The Collector may, in any case, require such statement to be made in writing and signed by the party or his agent.'

Section 11 says that, if there is any objection on any of the grounds specified in section 9, the Collector shall hold an inquiry.

You will see that no provision is made here for enabling the aggrieved party to show that the purpose for which the acquisition is proposed to be made is not a lawful purpose under the Act. All the proceedings are taken behind the back of the landholder, as it were, and, when once the final notification is published under section 6, no objection can be taken to the acquisition itself, although objections may be raised on the ground of wrong measurements, improper apportionment of compensation, or inadequacy of compensation ; in which case, if any objection is made under section 10, the party is entitled to ask the Collector to state the case to the Court and then that point will be decided by the Court. So far as the propriety of the acquisition itself is concerned, no judicial inquiry is held and no provision is made for any judicial inquiry to be made and no opportunity is given to the aggrieved party to make any representation. I know that, as a matter of fact, in some provinces, I know that in the province of Madras, there are standing orders of the Board of Revenue which require a preliminary inquiry. Very often acquisition is objected to, but that leads nowhere. If any inquiry is held, it is held behind the back of the party, and the man knows nothing of what has become of his objection, and the first notice that he gets of the whole affair is that the Collector is about to hold an inquiry in order to make an award, and sometimes the first notice that he gets of the proceedings is that an award has been made and that the party should come and take the money. So, as the law at present stands, no opportunity is given to the person, whose land it is proposed to acquire, to show that the purpose for which the land is sought to be acquired is not a public purpose within the meaning of the Act, and this is felt as a real grievance. As an instance of a case of doubtful validity, of doubtful legality in the matter of acquiring land, I may mention one case. For instance, in my part of the country, there is a good deal of irrigation from the Godavari and Kistna canals. Sometimes the Government provide field channels, but sometimes the owners of fields are not satisfied with the facilities provided by the

Government and they want to have field channels of their own through neighbouring lands belonging to other parties. These parties are naturally unwilling to have private channels, taken through their lands, and so the man who requires the channel to be so taken applies to the Public Works Department, and they take it upon themselves to acquire land on behalf of this man and at his expense. This has been done in a large number of cases, and I doubt very much whether acquiring land for the sake of a private individual is really a public purpose under the Act. But the man, whose land is acquired for this purpose, has no remedy against the wrong application of the Act, and has no opportunity of stating to the Collector that the purpose for which the land is proposed to be taken is not a public purpose. Again, I know of some cases in which land has been acquired by Government for the purpose of building temples. I doubt whether building a temple for a section of the community is really a public purpose within the meaning of this Act. But, as a matter of fact, there have been cases in which land has been acquired for building a temple or a mosque, Government contributing only one anna towards the cost of acquisition, the main cost being borne by the party. Therefore, I think there is a very good ground for amending the Act so as to provide a statutory remedy against illegal or unlawful acquisition. I believe my friend, Mr. Rangachariar, will support me in this matter, as he probably has come across cases in which the Act has not been properly applied.

I take this opportunity also of proposing one or two subsidiary changes.

Section 7 says :

‘Whenever any land shall have been so declared to be needed for a public purpose or for a company, the Local Government, or some officer authorised by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.’

Now, I want to amend this section so as to preclude Government from appointing as a Collector the officer responsible for making the preliminary investigation under section 4. I know that, if the same officer who makes the preliminary investigation under section 4 is also the person appointed as Collector under section 7, very often a good deal of harm is done. The preliminary inquiry that he has made under section 4 may not be quite correct, but the officer making it feels bound to support himself, though in making an award, he is supposed to act in a quasi-judicial capacity. I think it is desirable, therefore, that the officer who makes the inquiry, who selects the site and also makes the preliminary inquiry, should not be the officer who makes the award later on.

Then, I also make another small change.

Section 47 says :

‘If the Collector is opposed or impeded in taking possession, under this Act, of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate, and such Magistrate shall enforce the surrender of the land to the Collector.’

I propose to amend this section so as to make it necessary for the Collector always to apply to a Magistrate for putting himself in possession of the land, so that he should not himself take action, because he will be acting in a double capacity. As Collector he has made an award and acquired the land : and it is not quite proper that he should be the person to enforce his own order—it is better that he should apply to a Magistrate to enforce the order.

[Mr. J. Ramayya Pantulu.]

This, Sir, is the gist of my Bill, and I commend it to the House; and I request the permission of the House to introduce this Bill.

Mr. J. Hullah (Revenue and Agriculture Secretary) : Sir, I am not able to give any indication of what may be the subsequent attitude of the Government towards this Bill, but they have no objection to its introduction.

Mr. President : The question is :

‘That leave be given to introduce a Bill further to amend the Land Acquisition Act, 1894.’

The motion was adopted.

Mr. J. Ramayya Pantulu : Sir, I introduce the Bill.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Rai Bahadur Bakshi Sohan Lal (Jullundur Division : Non-Muhammadan) : Sir, I rise to move for leave to introduce :

‘A Bill further to amend the Code of Criminal Procedure, 1898.’

The Bill, together with its aims and objects, has already been circulated among the Honourable Members and is now placed on the table. The Honourable Members, who have had time to read the amendments suggested in the Bill along with the sections of the Code sought to be amended, will, I hope, bear me out, that the amendments proposed, far from being intended to level down the standard of justice in India, as has been represented from certain quarters, are intended and are expected to have the effect of levelling up the same. They are, far from being intended to create or promote racial hatred, bitterness or jealousy intended and expected to uproot the deep-rooted tree of hatred, bitterness and jealousy, the seeds of which were sown by the provisions of the original Criminal Procedure Code more than 60 years ago by providing special privileges, preferential treatment and favourable considerations for Europeans in their trials of criminal offences in India, and continuously fostered, nursed and manured by the unanimous and strong opposition, on the part of the European community, to the repeated and strenuous, but unsuccessful, efforts of the Indians to remove such distinctions from Indian legislation, and by the gross failures of justice during the last 60 years in criminal cases between Indians and Europeans.

The object of this Bill is to uproot this tree of racial hatred and to place Indians and Europeans on the same level before the sacred altar of law and justice.

There is no denying the fact that there is a general idea amongst Indians in India, as well as in the Colonies, that Europeans consider themselves as belonging to a superior race or descent, to a victorious nation and to a higher standard of civilisation and social position in comparison with Indians, and that they are in India to rule Indians and not to be ruled by Indians and that Indians must always hold a subordinate position. These ideas are mainly due to the special privileges, preferential treatment and favourable considerations allowed by the laws of the land to Europeans which are denied

to the sons of the soil. It is for this Assembly to consider how far such preferential treatment of Europeans in courts of justice in this country is consistent with the principles of the Reform Scheme constitution introduced into this country, and with the principles of law and justice as followed in England and other civilized countries of the world. Indians, Englishmen, Europeans or Americans do not claim any such preferential treatment to be provided in the laws and procedure of other countries. India is the only exception to the general rule. A European will ungrudgingly submit to the laws and procedure in force in Afghanistan, Turkey and Russia, and stand his trial, like other people of the country in which the offence is committed, without setting up his birthright to any special privileges. But they consider it below their dignity to be tried in India in the ordinary Courts on an equal footing with Indians. If an Indian or a European claimed such preferential treatment in the mode of trial in any other country, he would be ridiculed as foolish, if not idiotic. This Honourable Assembly has also to consider how far Europeans are justified in distrusting Indian Magistrates and Judges and Juries in their trials of criminal cases, when they have never doubted the fairness of Indian Judges in civil cases or in cases in which they are complainants against Indians. It will not be out of place for me to draw the attention of the Assembly in this connection to the Despatch of the Court of Directors of the year 1834, paragraphs 58, 59 and 60, directing the Governor General in Council to put European British subjects on the same footing, in regard to the criminal jurisdiction of Courts, as British Indian subjects, without any preferential treatment or distinction in favour of either : and I would also draw attention to the Royal Proclamations and Charters which permit no racial distinction in any matter of administration, much less in the administration of criminal justice in the procedure of trial, award of sentences, course of appeal and jurisdiction of criminal courts. Thus the provisions of the Bill, which I beg leave to introduce, are not at all the creation of my brain and have not been conceived in a spirit of racial prejudice or with the intention of causing uneasiness to any particular class of British subject, but they are the result of most careful study and discussion, amongst great statesmen, both in England and in India, extending over many decades, of the state of feeling existing among Indians of all shades of opinion. The penal laws and the procedure for the enforcement of such laws affect all communities alike, and there is no precedent for different treatment for different communities in the same country. If adultery is an offence in the Indian Penal Code, an Englishman in India cannot set up his own country's custom of treating that offence as a mere civil wrong and not a criminal offence. The greatest objection to the retention of these preferential distinctions in favour of European British subjects in the Criminal Procedure Code is the creation of a feeling of bitterness on the part of Indians and contempt on the part of Europeans, who claim to belong to a higher stratum, and the consequent want of harmony between the two races residing side by side under the same laws and Codes. I appeal to the good sense of the Europeans in this Assembly not to oppose the Bill, if they feel that the preferential treatment allowed to them is resented by their Indian neighbours. I am fully aware of the appointment by Government of a Racial Distinctions Committee, in pursuance of the Resolution, moved by my Honourable friend, Mr. N. M. Samarth, as amended by the Honourable the Home Member and adopted in the meeting of this Assembly of the 15th September, 1921, in which the principle of removing racial distinctions between Europeans and Indians in criminal trials

[Rai Bahadur Bakshi Sohan Lal.]

and proceedings was admitted. I am also aware that the Committee has not yet submitted its report to Government, but that fact does not stand in the way of this Assembly allowing my Bill to be introduced in this House. I will not take any further action till after the report of the Committee is before this House. To-day, I simply move that leave be given to introduce the Bill, and, after the leave is given, I will introduce the Bill.

The Honourable Sir William Vincent (Home Member) : Sir, I must say that I feel that this is a peculiarly inopportune moment to bring a Bill of this character before the Assembly. The whole subject of the privileges of European British subjects in criminal proceedings was fully discussed by Members of the Assembly last September, and it was decided to ask the Government to appoint a Committee to consider the question in all its aspects. Since then the Government have appointed a Committee for this purpose. Those who are aware of the *personnel* of that Committee will not accuse the Government of having in any way tried to avoid a thorough examination of this question or to exclude the fullest expression of opinion by Indians well qualified to speak on the point. The *personnel* of that Committee is indeed above reproach. Now, has the Honourable Member given to this Assembly any kind of reason whatever for anticipating the report of that Committee? And, now, may I turn to another point? This Bill really goes very much further than the privileges of European British subjects; the object of the Mover may be what he says, but the Bill affects many other important principles. The first of that is the introduction of a universal system of jury trial in sessions cases. I do not want to discuss the general question here as to whether jury trials are the best method of deciding criminal cases or not. That is much too large a subject for examination to-day; different opinions are held upon it; I know many great Indian lawyers who hold divergent opinions. But what I want to put to this Assembly to-day is this, that the Code of Criminal Procedure in itself provides full means of effecting what the Mover wishes in section 269. This section enables the Local Government to extend the system of jury trial to any district it likes. That power was previously subject to control by the Government of India, but, since the Devolution Act, the Local Government has full discretion, and it is for the local Legislative Council to put pressure in this matter on the Local Government to exercise their powers, if necessary, for the administration of law and justice is a provincial matter. Therefore, there is really no reason for the introduction of the Bill on this ground, nor can it be contended, I think, that jury trials can, at one stroke of the pen, be extended to every place, from Peshawar to Cape Comorin. Those who have practical experience of the many districts, will, I feel sure, support me in this matter.

The second proposal is the abolition of all trials under section 30 of the Criminal Procedure Code. This matter has been carefully investigated by the Government of India on various occasions and recently we took steps to restrict it. The Local Governments, at that time, strongly opposed abolishing the powers altogether, although we are working to that end in many places. Further, the effect of this proposal would be to impose a large and immediate financial burden on various provinces.

And now, I turn to what to my mind is the most important part of the Bill, the question of European British subjects. I have told the Assembly that a representative Committee has been appointed to examine

this matter. It includes Indian lawyers and an Indian judge of great experience; also many others well qualified to assess the value of the evidence given and consider the difficulties that arise in dealing with this difficult question. To those who sat on the Committee, these difficulties are but too apparent, and they require the most careful investigation. Now, is this Assembly going to stultify its own action by allowing a Bill of this kind to be introduced while that Committee is sitting and before it has been possible for it to make recommendations? Is that treating the Members of that Committee with reasonable respect? Will it not be regarded as indicating a desire to reject in advance, with contempt, any recommendations they may make? If this is the intention of the Assembly, why was this Committee appointed? Why did Government go to the expense of summoning men from all parts of India to give evidence before the Committee? I hope earnestly myself that, in these circumstances, the Members of the Assembly will not accept this motion.

Then, there is another aspect of the matter, and a most important one. The Honourable the Mover has disclaimed any intention of arousing racial bitterness. I am afraid, one or two of his remarks were not in accordance with this profession, but I am quite sure that it was not his intention to cause ill-feeling. But, I want to tell this Assembly that there is very great feeling on this subject in the European community and indeed in other communities also, and, if this Assembly, having appointed a Committee to examine this question, having agreed to subject the whole question to careful examination, allows a Bill of this character to be introduced, then, I believe, that action will go far to create suspicions and bitter feeling at a moment when peace above all is desirable and when we, faced with the grave crisis we are, can least of all risk the dangerous situation which will thus be caused. The acceptance of this motion may, indeed, perhaps wrongly, create the impression that Government and this Assembly will not even wait for the report of their own Committee before proceeding to legislate in regard to privileges regarded as of national importance. As I have said, there is no question about principles. The principle has been accepted. The subject is being investigated, but I must say that the present time is the most inopportune one possible for a motion of this kind. I believe the action of this Assembly in accepting it will have most injurious and almost disastrous effect on the country.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): I beg to move for an adjournment of this subject, Sir, if that would be in order.

Mr. President: The question is:

'That leave be given to introduce a Bill further to amend the Code of Criminal Procedure, 1898.'

The motion was negatived.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 4.)

Maulvi Abul Kasem (Dacca Division: Muhammadan Rural): I beg to move for leave to introduce:

'A Bill further to amend the Code of Criminal Procedure, 1898.'

[Maulvi Abul Kasem.]

My motion relates to an amendment of the definition section in the Criminal Procedure Code. As is stated in the Statement of Objects and Reasons, it only suggests to give a class of practitioners in criminal courts a little legal status and nothing more. It does not grant them any privilege which they do not at present practically enjoy, neither does it affect the vested interests of anybody. The definition, as it stands at present, places Attorneys of High Courts and Vakils as authorised legal practitioners and classes, mukhtears as other persons who may be authorised at the discretion of the Court. The fact is that these mukhtears have to appear at an examination, a fairly stiff examination, and, after they pass out, they are granted licenses by the High Court, which are renewable year after year. So, practically, they are under the authority of the High Court, and, as the definition now stands, they have no legal status and they feel it as a very great grievance, though of a sentimental character. In practice, these mukhtears are allowed to appear in Court and it is only very rarely that they are not allowed to appear in Court. So far as I know, there was only one instance in my district in which a mukhtear was not allowed to appear in Court. There is no reason why this distinction should be maintained. I might tell the Assembly that there are some very well known mukhtears, among them are some very capable men, and I might remind the Honourable the Leader of the House that, in his own province, for some time the Public Prosecutor was a mukhtear, although there were a good many pleaders and barristers practising in that Court itself. I only want, by this change in the definition, to give mukhtears a status which they now enjoy and to do away with the discretion of the Court to class them as authorised legal practitioners. They are licensed practitioners; they pass an examination, the same sort of examination, perhaps, which a pleader has to pass under the High Court rules, and they have to renew their licenses. If anybody is not of good conduct or behaves himself in an unprofessional way, the license can be withheld. Under these circumstances, so far as I am aware, I see no objection to make this simple change which will gratify their wishes—it may be their vanity—in the matter. There are large sections of people who want it, and I may remind the House that their self-respect is to some extent hurt, because they are placed in the same category as any man in the street. According to this definition, a pleader is a man who appears before a Court of justice with an authority from another person to appear in his behalf, and the mukhtear has to do the same. He is a man who has obtained a license from the Court, a recognised practitioner, who does practise in the Court; and I hope the House will have no objection to do this little justice to a deserving class of men. It affects only the United Provinces of Agra and Oudh and the two old provinces of Bihar and Orissa and Bengal proper. It does not affect the rest of the country. But these people are very keen about it and they are very sensitive, and I believe that, in the late Viceroy's Council, my friend, Mr. Ghuznavi, moved a Resolution to this effect when, I am told, he was assured by the Government that, when the Criminal Procedure Code came up for revision, this matter would be taken into consideration and the required change would be made. As the Code of Criminal Procedure is being amended now, I ask the permission of the House to amend it in this particular manner a little earlier than if we had to wait till the whole Criminal Procedure Code comes under consideration.

With these few words, I ask for the permission of the House and I hope that permission will be granted.

The Honourable Sir William Vincent (Home Member) : Sir, the Government have no intention of opposing the introduction of this Bill ; but there were some remarks that fell from my Honourable Friend, the Mover, which I think should not go unchallenged. He said that the Bill made practically no change in the present practice. That is a statement that is not entirely accurate, because there are many Courts at present in which mukhtears are not allowed even by courtesy, to practise according to the procedure now accepted. We were told of a mukhtear who was Public Prosecutor. I do not remember that *rara avis* though, I dare say, he did his work very well, but mukhtears are in some provinces not allowed to appear in Sessions Courts, whether as Public Prosecutor or for the defence. I entirely agree, however, with the Honourable Member, when he stated that many of these mukhtears are men of real ability and very great experience of criminal law.

I do not remember the occasion on which I promised to introduce into the Code of Criminal Procedure a section giving effect to the present proposals ; but, I suppose, I must accept the statement made by the Honourable Member. I am not prepared to contradict it at the moment. At any rate, he has forestalled any action by Government in this matter. In any case, the Government reserve to themselves, it will be understood, the right to adopt any attitude which they may think necessary in regard to this Bill on a future date though they do not oppose introduction.

Mr. President : The question is :

'That leave be given to introduce a Bill further to amend the Code of Criminal Procedure, 1898.'

The motion was adopted.

Maulvi Abul Kasem : I now beg to introduce the Bill.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

The Honourable Sir William Vincent (Home Member) : Sir, I am afraid that I am unable to give effect to the next item on the list of business ; for I am unable to present the Report of the Select Committee on the Bill further to amend the Code of Criminal Procedure, because of certain legal objections which have been put before us by my Honourable friend, Dr. Gour. These have necessitated a more prolonged examination of this Bill. I hope, in these circumstances, the Assembly will excuse me.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 1st February, 1922.