

Thursday, 22nd February, 1923

COUNCIL OF STATE DEBATES

(Official Report)

VOL. III, PART II

(24th January, 1923 to 27th March, 1923)

THIRD SESSION

OF THE

COUNCIL OF STATE, 1923.



DELHI
GOVERNMENT CENTRAL PRESS,
1923

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COUNCIL OF STATE.

Thursday, the 22nd February, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

THE CRIMINAL LAW AMENDMENT BILL LAID ON THE TABLE.

The SECRETARY OF THE COUNCIL: Sir, in accordance with Rule 25 of the Indian Legislative Rules, I lay on the table the Bill further to amend the Code of Criminal Procedure, 1898, the European Vagrancy Act, 1874, the Indian Limitation Act, 1908, and the Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings, which was passed by the Legislative Assembly at its meeting held on the 21st February.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL: Sir, a Message has been received from the Secretary of the Legislative Assembly, which runs as follows:

"In accordance with Rule 36 (1) of the Indian Legislative Rules I am directed to inform you that the amendment made by the Council of State in the Bill further to amend and to consolidate the law relating to the provision of house-accommodation for military officers in cantonments, was taken into consideration by the Legislative Assembly at their meeting today, the 21st February, 1923, and that the Assembly have agreed to the amendment."

THE WORKMEN'S COMPENSATION BILL.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to move:

"That the Bill to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident, as passed by the Legislative Assembly and amended by the Council of State, be passed."

When introducing this Bill to this House I explained that it was an experimental measure, that a great deal of care had been lavished upon its provisions and that in this Bill we were breaking a new field in labour legislation in this country. I think the debates in this House have shown how difficult it has been in spite of that care to word the Bill absolutely to the liking of everybody and how difficult it has been to work out the details of such a measure. On these points I can only say, Sir, that, in applying legislation of this nature to labour which in such a condition as it exists in India recognising liability to move away to its villages, and at the same time being fair to the employers of labour who are taking on the first responsibility to pay this compensation,—I can only say that in applying this legislation we have endeavoured to the best of our ability to thresh out

[Mr. D. T. Chadwick.]

these details so as to be fair to all and it now remains for us to find out by experience how they work. Everybody realises that as a result of that experience amendments in this Bill in some form or other will undoubtedly be necessary. The object of the Bill is not to set labour against capital, not to urge or give openings for one section of those employed in industry to overreach another, but to endeavour to settle labour and to make the conditions of labour more stable so that ultimately, as I said before, we may be able to build up a stable labour force in this country. Any improvements or alterations that are needed in this Act in order to further that object, which is the main central object of all legislation of this nature, will, I have not the slightest doubt, be most carefully considered. We know that some sections are apprehensive of certain conditions, but we trust and expect that their apprehensions will prove in experience not to be so deeply founded as they fear. At any rate, if amendments after experience are needed, they will be examined. With these remarks, I move that the Bill be passed.

The HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce): Sir, when on Tuesday last the Honourable Mr. Chadwick moved that this Bill, as passed by the Legislative Assembly, be taken into consideration, I, in common with most Honourable Members of this Council, accorded it a sincere welcome; it is with an equally sincere regret that I cannot extend to it a cordial valediction as it leaves this House.

The Bill as presented to us last Tuesday appeared to me to be a well-conceived measure. It had been carefully studied by a powerful Joint Committee and had subsequently been considered and adopted in the Legislative Assembly. Honourable Members may, therefore, well judge of my surprise when I saw an amendment put in by Government abrogating the judgment of the Joint Committee in respect of clause 11. Honourable Members will at once recognise to what I refer in this clause 11, and that is the medical examination of an injured workman. I should like those Honourable Members who have not carefully studied the clause as it now stands amended to realise what will be the effect of the various sections now. Sub-section (1) provides for the medical examination of an injured workman. Sub-section (3) modifies this by permitting an injured workman to leave the vicinity where he was injured, to go to his native country, subsequently return, present himself for medical examination and then he can claim compensation from the date of his medical examination. I did not like this section, Sir, but I did not strenuously oppose it, as it is also governed by sub-section (5) [which will be sub-section (6)] which provides that the medical examiner has power to determine what additional injury has occurred to the workman by reason of neglect. Now we come to the recently introduced sub-section (4), and that provides for compensation being paid to dependants of the workman who has died up-country without undergoing any medical examination whatever. I contend, Sir, that this Council has never had a Bill before it containing such contradictory clauses. Sub-section (1) provides for the medical examination of an injured workman; then we come to sub-section (3) which provides that he can go away without being medically examined, but it does certainly provide that he should be medically examined afterwards before he can claim compensation. Sub-section (4), the new sub-section, provides nothing in the way of a medical examination. So I contend, Sir, that this clause

as it now stands, invites the workman not to present himself for medical examination at all. He can get compensation both ways. He can go away to his country; if he recovers, he comes back and claims compensation for the injury. He can go away to his country, and if he dies, his dependants can claim compensation also. No doubt Government will point out that the Commissioner has discretionary powers in this matter. But I ask Honourable Members what Commissioner is likely to refuse to pay compensation, a claim for which is put forward by the dependants of a man who has died up-country, a man who may or may not have been known to have been injured? The cause of his death is entirely unknown. It may or may not have arisen from his injury; it may have been from some totally different cause altogether. Labourers in this country are extraordinary people to deal with. I have found that on many occasions. Labourers in this country—I do not say it does not obtain in other countries, probably it does,—labourers in this country are well-known as being able exponents of malingering. Now I can well conceive such a thing as this happening in connection with this sub-section (4). A man working in a factory finds that he is suffering from an incurable ailment, it may be cancer or may be anything else that is incurable. He knows he is going to die. Either he or his relations conceive the idea of securing some money. He procures a small accident, he gives notice of this accident, goes away up-country, and in due course he dies. Claims are received by the Commissioner on his death, supported by a medical certificate that his death arose out of the accident which occurred before he left for his country. Well, Sir, I do not place very much faith in medical certificates in this country, and I think that Honourable Members will agree with me that too much dependence cannot be placed on such documents. That, I merely quote, Sir, as one of the ways in which the sub-section (4) will provide a very wide opening for fraud. In objecting to this sub-section, I submit I am not arguing against the interests of the workmen. This Bill is a progressive Bill, it might be described as an educative Bill, and I do not see why it should not be used as a method of educating the workmen so that they may take advantage of the medical assistance offered to them immediately they are injured. This, Sir, was undoubtedly the intention of the Joint Committee when they considered this Bill, and as a Member of that Joint Committee I repeat that that was our intention.

I will not labour this point any further, Sir. I spoke on this subject on Tuesday last, but I should like to say one word more before I resume my seat. The Honourable Mr. Chadwick when presenting this Bill for consideration on Tuesday last informed the House that the Bill, as originally drafted, was circulated to the various Provincial Governments and to various bodies throughout this country for their opinion. If I remember rightly, the Honourable Mr. Innes confirmed this when he spoke. This action on the part of Government was a very right and proper one. Now, Sir, I contend, is it right and proper for Government to have now amended one of the most important clauses of this Bill by introducing a sub-section, which to my mind is a most objectionable sub-section, and which has not been circulated throughout the country nor has been placed before the various Provincial Governments and various bodies interested for their opinion? Nor was this sub-section even discussed in the powerful Joint Committee which sat on this Bill. Sir, I should be the last to wish to describe any action on the part of the Department of Commerce as unfair. To my mind, such a description is unthinkable in connection with the Department presided over by the Honourable Mr. Innes and his able lieutenant

[Sir Arthur Fröom.]

the Honourable Mr. Chadwick. But I do think that on this occasion the Department of Commerce has been wrong, and entirely wrong.

Sir, I do not propose to oppose the passing of the Bill, but I sincerely hope that Government will take the opportunity in another place of putting this matter right.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General): Sir, as one who has taken some part in the revision of this Bill in the Joint Select Committee, I am glad that I am here to-day to give my blessing to this Bill when it enters on its final career. This Bill, Sir, makes a great innovation in the labour history of this country. It places India on a footing of equality with other European and advanced countries of the world in the matter of labour legislation, and also in the matter of imposing salutary restrictions on the employers of labour to give help, solatium, comfort and security to their workmen. As such, the Bill will be received in this country, if not with enthusiasm, with a friendly spirit. Speaking on behalf of capital, I may say that the capitalists in this country have hitherto been always zealous and watchful of the interests of labour and, even before this legislation was thought of, every capitalist or the head of a business concern or industry deemed it his duty to compensate his workmen for injuries sustained. This legislation only puts on a statutory basis the rights of workmen to receive compensation and, as such, it places the working classes in a position, not to dominate as some people think over capital, but to exact what is their just due as working men. Viewed from that point of view, this legislation is of an exceptional character and is, therefore, welcomed not only by the labour classes but by the capitalists, who will do everything in their power, I feel certain, to see that the Bill is properly administered. My friend Sir Arthur Fröom has referred to section 11 and made certain observations with reference to it. I feel I can also quarrel with some of the provisions of this Bill, but this is neither the time nor the opportunity. The Bill comes to-day for final reading, at a stage when this sort of discursive argument in my humble opinion becomes entirely irrelevant. After all, this is partly an experimental measure. No legislation is ever free from ambiguity and defects. No country can frame any piece of legislation or any Bill that would not cause dissatisfaction to a certain extent, which would not be found difficult to work in certain parts. No legislation can be conceived which would satisfy all parties, but, taking it as a whole, I think the Workmen's Compensation Bill, which is now about to be passed, is a great improvement in many respects on similar Bills of other countries. It is a much milder measure than the European countries have passed, and than even the legislation in Japan. It is a partly experimental measure and, as such, certain provisions have been incorporated which will allay friction, which will remove discontent and be generally acceptable to the employers and the employees. Sir, I cannot allow this opportunity to pass without making one particular observation. The credit of framing this Bill, such a mild, just and fair Bill, is entirely due to the Honourable Mr. Innes. I cannot help expressing that the Members of the Joint Committee watched with admiration his mastery over the subject when he guided their deliberations, and the help which he gave them in considering this Bill. But the great thing is that, throughout those interesting discussions, Mr. Innes held the fair and just balance between labour and capital and zealously watched the respective interests of both these classes.

On behalf of the Joint Committee, I thank here publicly Mr. Innes for the great and valuable assistance he has given them and I trust this Bill, when passed into law, will be utilised with great circumspection and the Commissioners who will be appointed to administer this law will administer the same with that fairness and with that restraint which the importance of the measure demands. With these few words, Sir, I support this Bill at its final stage.

The HONOURABLE SIR ARTHUR FROOM: May I rise to a point of order, Sir. The Honourable Member who has just spoken has described my recent discussion as irrelevant.

The HONOURABLE THE PRESIDENT: I am afraid that is not a point of order.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I just want to put an incident before the House which occurred during the debate on the Bill. When this new clause was brought in, I wanted to get up that day to strongly support my friend Sir Arthur Froom on the point that, if a man has just got shaken about and went to his home, he might get plague or pneumonia or anything and die and then the employer would have to pay compensation. I wanted to get up but I did not catch the eye of the President. Later on, the Honourable Mr. Innes rose and when he put his arguments before the House, I was very glad that I had not got up. The argument that the workmen, when they get injured, want to go back to their homes, at once struck me. In our part of the country, we have got an old habit or tradition that a man who dies has got to be taken to his ancestral graveyard. I have seen myself that people have been brought in from Quetta, from Kabul, from Poona and so on. Now, if a man who has got this tradition, on meeting with an accident thinks that he is going to die of it, and that all the compensation given him will not cover the cost of his body being taken to his ancestral graveyard, he will be very nervous. He would like to get back there as soon as he can to save his people that expense. I quite sympathise with those who think that, if they are going to die, they should clear away to their homes as soon as they can. Under the circumstances, I am now absolutely of opinion that that clause has been brought in rightly and it is only on that point that I wanted to speak because the other day I did say that I neither support the Bill nor oppose it.

The HONOURABLE SIR LESLIE MILLER (Madras: Nominated Non-Official): Sir, as my Honourable friend Sir Arthur Froom is unable to speak for himself, I am glad to put in a word in his defence. It seems to me that his speech cannot properly be described as discursive or as irrelevant. He was making a suggestion, as I understood him, for future action on the part of Government. That it appears to me he is perfectly justified in doing. Sir, I share the distrust which my Honourable friend has for medical certificates, and not only in this country, but I would venture to suggest to him that it is quite probable that the Commissioner who is the final arbiter in this particular matter would also share his distrust and it may be left to him to see at any rate to this much as to who gives the medical certificates and if he distrusts it, as he most assuredly will in many cases, he will be able to look into other evidence such as the cause and nature and extent of the accident and see whether in the ordinary course of nature it is likely to result in death. I imagine that will provide a sufficient safeguard against the danger which my Honourable friend

[Sir Leslie Miller.]

Sir Arthur Froom fears. But there is no objection whatever, if that can be arranged, for the Government to reconsider the matter further elsewhere.

The HONOURABLE SIR MANECKJI DADABHOY: Sir, may I offer a word of personal explanation? I may assure my Honourable friend Sir Arthur Froom that I meant no disrespect to him in any way when I said that the discussion was irrelevant. I am afraid my remark has been misunderstood. All that I said was that to-day is the third reading of the Bill and he could not serve any useful purpose in discussing these questions now. The proper time was when those clauses were under discussion. That is all what I meant.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadian): Sir, my Honourable friend Sir Arthur Froom has given expression to the feeling of regret at Government's moving an amendment to the original Bill, that is, introducing new sub-clause (4) to clause 11. When this amendment was moved I had my own doubts whether the Commissioner had the discretionary power of the kind that my friend the Honourable Sir Leslie Miller just now referred to. The wording of Government amendment was not quite clear, and therefore it was that I begged your permission to move an amendment to make the whole position quite clear. The Government were prepared to accept it, but you, Sir, ruled it out on the ground that notice was not given in time.

The HONOURABLE THE PRESIDENT: I ruled it out because the Government refused to agree to the moving of a previous amendment to the same clause on the ground of want of notice.

The HONOURABLE MR. LALUBHAI SAMALDAS: If the notice was short, it was partly my fault, but it was partly also the fault of Government that they amended their amendment at the last moment. I still think, Sir, that if that amendment can be allowed to be moved by you, it will remove all the difficulties that my friend Sir Arthur Froom feels. May I read the amendment, Sir?

The HONOURABLE THE PRESIDENT: On the third reading of a Bill, two classes of amendments and two classes of amendments only can be moved, namely, (1) formal amendments, that is, amendments which do not change the substance of the clause but are in the nature of drafting amendments, and (2) consequential amendments, that is, amendments which have to be made in some other part of the Bill as a result of an amendment made at the consideration stage. If the Honourable Member's amendment is in his opinion within either of those classes, he may read it to the House.

The HONOURABLE MR. LALUBHAI SAMALDAS: May I explain my position, Sir? The amendment that I propose to move is, of course, not a consequential one.

The HONOURABLE THE PRESIDENT: It must be either formal or consequential.

The HONOURABLE MR. LALUBHAI SAMALDAS: I think it is formal to some extent. I think it is formal, but it will be for you, Sir, to rule whether it is formal or not. When I moved that amendment, my Honourable friend Saiyid Raza Ali who followed me, said, that the amendment moved by the Honourable Mr. Chadwick had the same meaning that I

wanted to put into it by my amendment and I thought that as a lawyer he knew much better about the interpretation of the clause than I did, and so I accepted it. I still think, Sir, that it would be better to remove any misapprehension by making a verbal alteration which will make the meaning quite clear. May I just read out my amendment, Sir?

The HONOURABLE THE PRESIDENT: Certainly, but the Honourable Member should have handed in a copy of the amendment at the table. He can read the amendment after he has laid a copy on the table. In the meantime, while the Honourable Member is doing it, the debate may proceed.

The HONOURABLE MR. LALUBHAI SAMALDAS: My amendment is here. May I lay it on the table, Sir?

(A copy of the amendment was then handed in at the table and was passed on to the President.)

The HONOURABLE THE PRESIDENT: Will the Honourable Member now read his amendment?

The HONOURABLE MR. LALUBHAI SAMALDAS: The clause as amended will read thus:

"Where a workman whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself to medical examination as required by either of those sub-sections, the Commissioner may (*then I drop out the words 'if he thinks fit'*) direct the payment of so much compensation as he thinks fit to the dependants of the deceased workman."

The HONOURABLE THE PRESIDENT: In the first place, before I consider the question whether this is an admissible amendment, I should like to know from the Government Benches whether they object on the ground of want of notice.

The HONOURABLE MR. D. T. CHADWICK: No, Sir.

The HONOURABLE THE PRESIDENT: Then I should like to hear the Honourable Mr. Lalubhai Samaldas on the point as to whether this is a formal amendment.

The HONOURABLE MR. LALUBHAI SAMALDAS: I thought, Sir, that the wording of the amendment of the Honourable Mr. Chadwick did not make it quite clear whether the Commissioner had the power to reduce the compensation or whether he was bound to pay the whole of it.

The HONOURABLE SAIYAD RAZA ALI (United Provinces East: Muhammadan): May I know to what clause the amendment relates?

The HONOURABLE MR. LALUBHAI SAMALDAS: To clause 11, sub-clause (4), as passed at the time of the second reading of the Bill. My Honourable friend Mr. Raza Ali then said that the Commissioner had that discretion. If we refer to the definition of the word "compensation" it means compensation as provided for by this Act. That means full compensation and nothing else. I therefore wanted to make it quite clear that the Commissioner has the discretionary power to reduce it if he thinks that the workman has been either negligent or that the cause of his death is not directly attributable to the accident. That was the reason why I wanted to move this amendment in order to make the whole meaning quite clear. I think that as this amendment is to make this quite clear, it is a verbal amendment.

The HONOURABLE THE PRESIDENT: I wished to ascertain whether this amendment is a formal amendment or not. I think I must ask the 'Honourable Member in charge to tell me what the intention of his new clause' was. Was the intention as stated by the Honourable Mr. Lalubhai Samaldas or not? It is not too clear from the actual clause.

The HONOURABLE MR. D. T. CHADWICK: The idea in drafting this amendment was to give the Commissioner discretion to decide whether to grant compensation or not, and if he decided to grant compensation, the compensation was that defined by the Act.

The HONOURABLE THE PRESIDENT: Then, in these circumstances, I think the proposed amendment is a clear alteration of substance, because the amendment, as I read it, is that the Commissioner may not give more than the maximum prescribed by the Act but he may give less. If that is so, it is not a formal amendment. If the intention of the Mover of the original amendment was as stated, then the present proposition is not a formal amendment. It is an amendment of substance and therefore it cannot be moved at this stage.

The HONOURABLE MR. LALUBHAI SAMALDAS: Can I not move it, Sir?

The HONOURABLE THE PRESIDENT: It cannot be moved. It is obviously a change in the law if the intention was as stated.

The HONOURABLE MR. LALUBHAI SAMALDAS: I bow to your ruling, Sir.

The HONOURABLE MR. C. A. INNES (Commerce and Industries Member): Sir, as Sir Maneckji Dadabhoy has said—may I take this opportunity of thanking the Honourable Member for his very kind reference to myself?—as Sir Maneckji Dadabhoy has said, this is hardly the stage for controversy and argument. But with the permission of the Council I must make a brief reference to certain remarks which fell from my Honourable friend Sir Arthur Froom. In the first place, Sir Arthur Froom suggested that the Government had no right to move an amendment of this kind without previous reference to Chambers of Commerce and Local Governments throughout India. He said that we had claimed that this Bill had been drafted throughout in close consultation with Local Governments and Chambers of Commerce and that it was wrong for us at this stage to have introduced an alteration of substance without giving the Chambers of Commerce and employers a chance of objecting. Now, Sir, I must challenge that supposition at once. Let me remind the Council that at the suggestion of the Joint Committee when we omitted certain clauses of the Bill which are as important, it may be, from the point of view of the workman, it was never suggested to us that it was not within our power and within our right to make those suggestions and propose those alterations without previous circulation to workmen. Now, Sir, what did I do? I gave ample notice of this amendment. I put in a notice on Friday last to the best of my recollection; I gave longer notice than is required by the rules. I placed that amendment before this Council. It was fairly and squarely debated by this Council and the Council decided against Sir Arthur Froom and his friends. The complaint of Sir Arthur Froom, I suggest, is not against me but is against this Council which rejected his view.

Again, Sir, Sir Arthur Froom suggested that this amendment which is the cause of his complaint abrogated the decision of the Joint Committee. Here again I join issue with the Honourable gentleman. When the Bill left the Joint Committee it provided that a workman was required within three days to submit himself to medical examination, if the employer required him to do so. Clause 2 of the Bill then stated that if a workman refuses to submit himself to such examination his right to receive compensation should be suspended during the continuance of such refusal, unless in case of refusal he was prevented by any sufficient cause from so submitting himself. If such sufficient cause existed, the Commissioner had the power to give compensation. Where is the difference? Where is the difference between the Bill as it left the Joint Committee and the Bill as we have it now? The only difference we have made is that we have clarified the position and we have made it easier for employers and workmen to understand where they are.

I do not propose, Sir, to go further into the merits of this clause; as the Honourable Sir Maneckji Dadabhoy said, the time is past for that and I have no doubt that in another place I shall be called to account and the matter will be debated there. I think I need only say, as Mr. Chadwick has already said, that from the first we have regarded this as an experimental Bill. It is too much to hope that we can so draft this Bill that its provisions will please everybody and all classes alike. All the way through we have tried our very best to hold the balance even between the employer and the workman. In some cases the workmen think that we have weighted the scale down on the side of the employer, and in some cases the employers think that we have weighted the scale down on the side of the workmen. I am afraid, Sir, that in a Bill of this kind such complaints must be inevitable. My only regret is that this controversy has arisen at this late stage; for all the way through we have tried to proceed by means of consent and we have succeeded, I think, except possibly on this one point, to a very remarkable degree. I would remind my Honourable friend that the Bill is a Bill which must be tested by experiment. It is perfectly certain that experience in working will bring defects to light. This particular point will be watched most carefully and in addressing local Governments we will draw particular attention to the criticisms that have been directed to this clause; we will ask the Commissioners to watch it very very carefully indeed and to make a reference to it in their annual reports, and the Council may rest assured that if we do find that the dangers which the employers feel do exist in this clause—mind you, Sir, I do not admit that those dangers are so serious as have been represented—but if we do find by experience that there is danger of fraud in this particular clause, the Council may rest assured that we shall not hesitate to place before the Legislature such amendments as may be necessary.

The motion was adopted.

THE INDIAN FACTORIES (AMENDMENT) BILL.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary):
Sir, I beg to move:

"That the Bill further to amend the Indian Factories Act, 1911, as passed by the Legislative Assembly, be taken into consideration."

This is a very small Bill to clarify one or two points left obscure by the Amending Act. The chief point with which we deal arises through a certain arithmetical difficulty from the combination of sections 2, 22 and

[Mr. D. T. Chadwick.]

27 of the Indian Factories Act, as last amended. Section 2 defines a week as the period between midnight on Saturday night and midnight on the succeeding Saturday night. Section 22 ensures that every person employed in a factory should have Sunday as a holiday unless he has had, or will have, a holiday for a whole day on one of the three days immediately preceding or succeeding that Sunday. Section 27 provides that no person shall be employed in a factory for more than sixty hours in any one week. Now, if there is a Hindu holiday on Friday and the employer gives his employed a holiday on that day instead of the subsequent Sunday, according to our present definition of a week, the employed will have to work 50 hours in one week and 70 hours the next week. This last would be contrary to section 27 of the Act, although, taken as a whole, he has only done 120 hours in two weeks. That is the chief amendment proposed in this Bill and in fact is the only important amendment, *viz.*, where in accordance with the provisions of sub-section (1) any person is employed on a Sunday in consequence of his having had a holiday on one of the three days preceding that Sunday, that Sunday shall, for the purpose of calculating the weekly hours of work of such person, be deemed to be included in the preceding week. I do not think there is anything controversial about this amendment or any of the others which are purely of a drafting nature.

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) : Sir, I should like to have some information on the principal point which has been raised in this small Bill before the House. I should like to know how many more holidays it will be necessary for the employer to give to the workmen if this amendment in the Factories Act is not made. As a member of the Joint Committee which considered the amendment of the Factories Act, I asked this question and was told that the additional holidays would be only four or five days in the year. I do not see why for such a small addition of 4 or 5 days throughout the whole year, it should be thought necessary to amend the Factories Act. As was pointed out just now, if an employer gives Friday as a holiday then in order to comply with the new provisions of the Factory Act, namely, that for not more than 60 hours a "week" will a workman be compelled to work in the factory, this amendment has been found to be necessary, unless an additional holiday is to be allowed. I contend that if that amendment is not made the only result will be that three or four additional holidays will have to be given in the course of the whole year. I should like to know if that is the only result that is going to take place, and if this amendment is proposed in order not to compel employers to add to the workman's holidays.

The HONOURABLE MR. C. A. INNES (Commerce Member) : May I explain, Sir, that the object of this small Bill is merely to carry out the intentions of the Legislature when the Indian Factories Act was amended last year. The intention of the amendment made in the Factories Act last year was to provide this weekly rest day once a week. It was also intended that an employer should be allowed to substitute for a Sunday a holiday either on one of the three days preceding that Sunday or on one of the three days succeeding that Sunday. The intention of that was to allow the employer in the interests of his workmen to substitute for a Sunday an important religious festival, if such an important religious festival occurred in the three days before the Sunday or after the Sunday. The intention of the Act was to provide for at least 52 holidays in the year. I understand that some employers usually give 56 or 57 holidays in a year

and that if we left the Act as it now stands, it would not make a difference of more than 4 or 5 days' holidays in the year. But, Sir, that is not the point. The reason why Government have brought this Bill forward is that, in fairness to the employers, we want to carry out clearly what the express intention of the Legislature was last year. If, Sir, we do not carry this Bill, if we leave the Act as it is at present, what will be the result? The result will be this. An important religious festival may occur on a Friday or a Saturday. The workman may want to have their weekly holiday on that Friday or Saturday instead of the Sunday; they may want their holiday on the day of their religious festival. If we leave the Act as it is, then there is nothing to compel the employer to give them that holiday on that particular day. He may say, "No, I am required by law to give you a holiday in the week and you will have your Sunday and not the day of your own important religious festival". Now, Sir, what will be the result? The result will be strikes and struggle. Is that right? As I have said more than once, in dealing with the Workmen's Compensation Bill, it is the duty of the Government to try and hold the balance even between the employers and the workmen, and the only object of this Bill is to carry out the express intention of the Legislature. I am bound to state, Sir, that when we passed this clause last year, we overlooked the cumulative effect of the definition of section 22, and the definition of week. We made a mistake, and it is only right, it is only honest, for Government to come before the Legislature to say, "we made this mistake, and therefore we have brought forward this small Bill". I say, Sir, it is not relevant for the Honourable Member to say, "If you do not carry this Bill, the only result will be that you will compel the employer to give more holidays and that will be a good thing." It will not be a good thing, it will be a very bad thing, because the employers will say that they have not been treated fairly by the Indian Legislature.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, I entirely endorse what the Honourable Mr. Innes has said with reference to the amendment of this Bill. This amendment of the Factory Act will remove the employers of labour from a great dilemma in which they are at present. It often happens that an important Hindu or Muhammadan festival comes on a Sunday, and the employers of labour, in order to meet the wishes of their employees, transfer the holiday to another day. This amendment, therefore, is really in the interests of the employees whose cause my Honourable friend Mr. Kale is always advocating in this Council. My friend has made one pertinent remark. He asked, "what difference would it make if the employees got two or three extra holidays in the year?" If calculations are properly made, he will find that it is more than two or three holidays they will get in the course of the year if the Act is not amended. Probably, my friend Mr. Kale is not aware of the fact that the employers cannot be expected to pay house-rents, wages, etc., to the workmen for work which they have not done, and that will entail considerable hardship on various industries. I say, Sir, this amendment is absolutely necessary and it has been taken in hand in time both in the interests of the employers and the employees. This amendment will remove a source of constant friction between the employers and the employees.

The motion that the Bill further to amend the Indian Factories Act, 1911, as passed by the Legislative Assembly, be taken into consideration, was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed to the detailed consideration of the Bill. *

Clauses 1 to 5 were added to the Bill.

The Preamble was added to the Bill.

The HONOURABLE MR. D. T. CHADWICK: I beg to move, Sir:

"That the Bill further to amend the Indian Factories Act, 1911, as passed by the Legislative Assembly, be passed."

The motion was adopted.

THE HINDU CEREMONIAL EMOLUMENTS BILL.

The HONOURABLE THE PRESIDENT: The Council will now resume the consideration of the Bill to amend the law relating to the right of hereditary Hindu Priests to claim emoluments in respect of religious ceremonies. This debate was adjourned on the 15th September last year.

The HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-official): Sir, before the consideration of this Bill is resumed, I should like to know whether the Government will kindly declare their attitude with regard to this Bill and the amendments to it. The Honourable Mian Sir Muhammad Shafi speaking for Government on the last occasion said that the attitude of Government was entirely neutral from which, to my mind, it seems that all Members of Government sitting in the House will vote according to their conscience, and that they will have no directions to vote one way or the other.

The HONOURABLE THE PRESIDENT: Is the Honourable the Leader of the House prepared to give an explanation?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, the House will remember that on the last occasion when this Bill was under discussion, I declared on behalf of the Government that their attitude was entirely neutral. That means that while Members of the Executive Council will not take part in the voting, other official Members can vote as they like.

The HONOURABLE MR. G. S. KHAPARDE: Do you mean both with regard to the amendments and the Bill?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: The amendments stand on an entirely different footing.

The HONOURABLE MR. G. S. KHAPARDE: Will the Honourable Member kindly tell us what Government's attitude is with regard to the amendments?

The HONOURABLE THE PRESIDENT: The motion for consideration of the Bill has not yet been agreed to.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS (Bombay: Nominated Non-official): Sir, I wish very much that I was able
12 NOON. to speak in support of the Bill as submitted to the House. For reasons which are based on my convictions, as a Hindu I would very much like to see some of the fetters that exist at present on Hindus either relaxed or removed. But the Bill as it is submitted to this House appears to me to be a very incomplete measure, and further I strongly disapprove of any short-cuts by or through legislation for the purpose of the removal of fetters, either social or religious, or fetters that come on owing to

custom immemorial. I feel, Sir, that at a time when the passing of laws and regulations is in the hands of Legislatures with a strong non-official majority and particularly those who take up an attitude of neutrality, as has been declared now by the Honourable the Leader of the House, it is very important for Legislatures to take stock of all the various aspects, before disturbing any of the rights or privileges that may be enjoyed by any person, either owing to religious or social customs. Therefore, I felt it necessary to preface what I am going to say hereafter with this clear reason why I think it only right to oppose this Bill. I may claim to be a Hindu who is not orthodox by any means. Whilst I am a religious Hindu, I feel that there are many religious trammels and handicaps on Hindu society at present and I have been doing my humble bit to get rid of these. But, at the same time, I strongly feel that it is wrong both on principle and as a matter of tactics to bring in the Legislature to disturb the rights of anybody, be it the Brahman or the non-Brahman. I feel, Sir, that the measure as it is submitted before the House is absolutely incomplete. Amongst the definitions, I miss the definition of the term "hereditary Hindu priest". I see that an Honourable Member has tabled an amendment on this subject and perhaps, if the Honourable Member will move that amendment, I may be able to say how even that amendment made by the Honourable Member would not meet with all the various requirements of the term "hereditary Hindu priest." But I will say only this, Sir, at this stage, that, in the correspondence that I have been handed over by one Honourable Member to-day I see that the whole idea of a hereditary Hindu priest has been taken to be what is called "Gramya priest" that is, a village priest. But I know of other hereditary Hindu priests from whom I and many like me suffer, if you like to put it that way. There is the family priest and the caste priest, the mahajan priest and the village priest. Now, I really wonder whether the Honourable Member who is responsible for this Bill had in his mind all these various priests or whether there is only one species of priests that he had in mind. Perhaps the Honourable Member who is to move the amendment that will come up later will be able to tell us more about it and I may be able to have my difficulties solved. But in the meantime, the Bill as it is submitted before the House is grossly incomplete in that respect.

My next difficulty, Sir, is this that the Bill has as Preamble, "Whereas it is expedient that the law in force in certain parts of British India, etc." Now, that law in force, I understand, Sir, is not a statutory law but is a law of the nature of what is called judgment law. Not being a statutory law a layman like me is not able to find out how that law stands, but I am told by my Honourable friend Mr. Khaparde that that judgment law is based on a Bombay Regulation of 1827 which made watans immoveable property. Whether that Regulation of 1827 was right or wrong, does not lie before us to-day. The facts are that there was a Regulation of 1827 which made certain interests vested interests, which made watans as they were then perhaps known and held in high respect immoveable property. I feel, therefore, Sir, that to take away anything out of the rights of those who had acquired certain immoveable property very nearly a hundred years back requires a very strong case to be made out. I am sure that both Government and this House are very jealous and would be very very careful before disturbing the vested interests of anybody, be it either labour or commerce, be it any community or any caste, and I certainly do not think that, as an earnest of what is going

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to come hereafter from Legislatures like this, they should go forward to any community in India, with the proposal to trample over the vested interests of somebody created a hundred years back. I think, Sir, it ought to be left to the Hindu to fight it out in his own society, among his own people, in his own village. I think this Legislature should consider several times, and even after that hesitate long before taking away any of those vested rights, for I see there is not the slightest provision in the Bill for any compensation for the deprival of such vested rights. I would only refer, Sir, to the opinion of a District Judge of high repute whom I know—and that District Judge of Poona, Mr. G. G. French, says that if the measure obtains sufficient support in the Legislative Assembly to be proceeded with, it requires the addition of provisions to compensate the persons who suffer by its enactment. Now, that is an opinion expressed not by a Brahman but by a person who is absolutely impartial and unprejudiced, and I do not think that this House can possibly overlook the absolute necessity, in fairness and justice, of seeing that a clause regarding compensation is added to the Bill before giving this Bill its approval.

The Honourable Leader said that Government propose to take a neutral attitude. That is as it should be, and that is what everybody would have expected. The correspondence with the various Governments that I have in my hand shows similar recommendations from the other provincial Governments to whom the Central Government referred this question. But that, Sir, to my mind increases further the responsibility of this House. In several places in the correspondence that I have before me I see remarks saying that the majority of the Hindu community ought to count, and their views ought to be respected in this connection. I do not know, being perhaps the most junior Member in this House, Sir, I don't know whether, when the Bill was introduced, Government placed before the House a synopsis of the opinions that they may have received from well-known Hindus all over India. In fact, I am not aware whether there have been any complaints or objections from the people whose rights may be injured by this legislation. I hope that in the course of the debate, some sort of reply from the Government may be forthcoming in this connection. For I think that, when any non-official Member moves any Bill and if there has been any correspondence submitted to Government on the score of the underlying principle of the Bill, it is absolutely necessary that the Legislature should, before they are asked to consider the measure, have all such papers laid before it. It is quite possible that they were laid before the Legislature before now. Anyway, I should like very much to know whether Government are withholding anything or whether they have received none at all. Until we know exactly what information has been put before Government by people outside this House, I feel, Sir, very strongly that a measure like this, besides being faulty as I have shown it to be, according to my lights, would not meet with the approval of the House mainly for the reason that it is an effort to a short-cut in matters which are either based on religion or custom, both matters which I think the people themselves ought to settle without the help of the Legislature.

(The Honourable Mr. Sethna then rose to speak.)

The HONOURABLE THE PRESIDENT: I think the Honourable Member has already spoken in September.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muham-
madan): No, Sir.

The HONOURABLE THE PRESIDENT: Has the Honourable Member
not spoken on the debate?

The HONOURABLE MR. PHIROZE SETHNA: I moved a post-
ponement.

The HONOURABLE THE PRESIDENT: Did you speak on the merits?

The HONOURABLE MR. PHIROZE SETHNA: No, Sir.

Sir, as you have just informed this House, this Bill came up for dis-
cussion before this Council during the September Session at Simla. This
Bill affects, as far as I make out, only the Mahratta communities who live
mostly in the Bombay Presidency and in the Central Provinces. We
claim the honour of having two members of that community as Members
of this House. One Honourable Member of that community, Mr. Kale,
introduced the Bill. Another very esteemed Member of the same com-
munity, my Honourable friend Mr. Khaparde, opposed the Bill and opposed
it very vigorously. We had therefore two conflicting opinions before the
House. The Members who followed ranged themselves under the two
banners. We might have proceeded to a vote were it not for a point
which was brought forward by our learned friend the Honourable Sir
Leslie Miller. He urged that what the Bill proposed was tantamount to
confiscation, and if it were confiscation, there was no provision for any
compensation for such confiscation, which is the point which is also taken
up this morning by my Honourable friend Mr. Purshotamdas. Whether
it is confiscation and if it deserves any compensation I will deal with a little
later. I will just refer to one or two points in the speech of my Honour-
able friend Mr. Purshotamdas. He said that this Bill deals with only
hereditary village priests. But members of the Hindu community have
to deal with, I think he mentioned, four different classes of priests.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: At least
four.

The HONOURABLE MR. PHIROZE SETHNA: With at least four. Per-
haps more. But whether there are four different classes, village, Mahajan,
or caste or any other kind of priest, the Bill clearly lays down that it is in
regard to those priests who claim ceremonial emoluments, be they village
priests, be they mahajan priests, or be they any others. Therefore, that
point is to my mind very clear. The Honourable Mr. Purshotamdas
said that in the different reports which have been published, the authorities
have said that the views of the majority have not been obtained. But, Sir,
the Bill has been before the country for quite a long time and I do not
think there has been any public meeting held or that there has been any
demand in the press or the platform or anything done in the two provinces
particularly concerned with this Bill, to show that there is general opposition
to it.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: I only
wanted to know whether the Government had received anything. I did not
complain that nothing has been received.

The HONOURABLE MR. PHIROZE SETHNA: I am not speaking, Sir,
on behalf of Government. I say that I have not read in the papers of
any organisations or any meetings held to oppose this measure. On the

[Mr. Phiroze Sethna.]

contrary, I find that a Resolution was passed the other day by the National Liberal Conference in which they strongly supported the passage of this Bill through the Legislature. When introducing this Bill the Honourable Mr. Kale informed us that the main provision of the Bill was to the effect that no hereditary Hindu priest can sue for ceremonial emoluments unless he had performed or had assisted in the performance of religious ceremonies. In other words, the actual performance or the assisting in the performance of religious ceremonies is a *sine qua non* to enable him to claim such ceremonial emoluments. So far as I know, the law does not lay down that in order that any religious ceremony might be considered as validly and lawfully performed, it must be performed by hereditary priests. On the other hand, I think Hindu society recognises that any religious ceremony performed, either by hereditary priests or by any other priest, can be considered as perfectly valid. Therefore, neither the law nor society insist upon religious ceremony being performed by no other than hereditary priests. In fact, the validity of a religious ceremony does not depend upon the heredity of the priest performing it. I know that the law lays down that they must pay to these hereditary priests the ceremonial emoluments whether the ceremony is performed by them or by any other priests. There is a growing section of people in the Deccan in the Bombay Presidency who seem to have lost all faith in these hereditary priests. They appear to have so lost faith for various reasons. In the first place, they seem to think that this class of priests as a rule are a very ignorant lot and I believe it is the opinion of several Mahratta gentlemen that these priests are so ignorant that the manner in which they perform these religious ceremonies in their homes is no more than mere mockery. Another reason is that they do not think that the high and sacred calling of priesthood should be the monopoly of any one caste, but that it should be open to any person irrespective of caste. And lastly, they also object to a hereditary system of priesthood because, like all other hereditary institutions, it tends to degenerate and there results consequent failure in the proper discharge and carrying out of religious duties. Then again, several Mahrattas in the Deccan claim that they are descended from the Khatriyas. It is a well-known fact that it is the Vedôkta ritual which is followed in regard to performance of religious ceremonies in Brahmin and Khatriya families and the Puranôkta ritual is observed in regard to the spiritual needs and requirements of the Vaishya and Sudra communities. These hereditary priests contend that the Mahrattas are descended from the Sudras and insist upon the Puranôkta ritual, whereas the advanced communities who now object to these hereditary priests insist upon the Vedôkta ritual. That is the bone of contention and that is the reason why there is great difference of opinion between this growing section of Mahrattas and the hereditary Hindu priests. In this connection, I may mention in passing that there exists in Bombay a Society known as the Hindu Missionary Society, started by the late Mr. G. B. Vaidya, an honoured name in the ranks of social and religious reformers in the Western Presidency. One of the objects of the Society was to simplify the very complex and elaborate Hindu religious ritual. They have succeeded in doing so, as a result of which I understand that many Hindu families adopt this new ritual not only because it is simple but also because it does not land them into very considerable expense. The point before the Legislature is to consider whether we should offer protection to these communities and minorities or not, or will continue to compel them to pay what are called the ceremonial emoluments, even though those priests have rendered no services, even though

the ceremonies may have been performed by other priests and even though those communities and minorities have lost all faith in hereditary Brahmin priesthood. That is the great question involved in the Bill, and I for one hold it is absolutely necessary that the Legislature should afford to the minorities the protection they desire, for otherwise it would amount to what may be called social and religious tyranny, which it ought to be the endeavour of any Legislature not to tolerate.

Now, Sir, as to the point raised by the Honourable Sir Leslie Miller and in consequence of which I asked for a postponement, I may mention that I asked for a postponement in September in the full hope that we were meeting in November so that the matter would come up again within six weeks and would be fresh in our minds, but, as we know, there has been a delay of five months. On the other hand, these five months have enabled Members to inquire into the matter and to obtain first-hand information, as I have endeavoured to do, to be able to decide which way we should vote. In regard to confiscation I certainly will admit that Hindu hereditary priests of the kind referred to in the Bill have vested rights; I do not deny that for a moment. But the abolition of every kind of vested right does not amount to confiscation. There may be rights which are opposed to public policy, there may be rights which may interfere with one's individual liberty, which we should have no hesitation in abolishing. My Honourable friend behind referred to the reports received from different parts of India from people whose opinions were invited on the Bill. If he will go over them very carefully, he will find that the great majority of judicial opinion is to the effect that the existing system is certainly opposed not only to public policy but is also against individual liberty. (*The Honourable Mr. G. S. Khaparde*: "I do not think so.") I may be wrong. It is for Mr. Khaparde to prove it. The present position resolves itself into this. Either these minorities have got to accept the services of priests they do not care for or they have to indemnify them. What is the result? They have either to put up with very indifferent and undesirable priests or to incur great expenditure. Consequently, Sir, in the interests both as I say of public policy and in the interests of legitimate individual liberty—I would say in the higher and more compelling interests of legitimate individual liberty—this measure ought certainly to be accepted.

(The Honourable Sardar Jogendra Singh rose to speak.)

THE HONOURABLE THE PRESIDENT: Does the Honourable Sardar wish to speak?

THE HONOURABLE SARDAR JOGENDRA SINGH (Punjab: Sikh): I do not think I have spoken before, Sir.

THE HONOURABLE THE PRESIDENT: Though he did not speak he moved the closure on the last occasion.

THE HONOURABLE SARDAR JOGENDRA SINGH: On the Bill itself I have very little to say. I am not acquainted with the conditions which have moved my friend Mr. Kale to put this Bill before the Council. But there are two questions of public policy that have arisen. One is the neutrality of the Government on a Bill like this presented before the Council and the other is the Honourable Mr. Thakurdas' contention that all matters of this kind should be settled without the assistance of the Legislature. These two questions to me seem very important, as we in the Punjab, particularly the Sikhs, at the present moment are greatly concerned with

[Sardar Jogendra Singh.]

a question of a similar nature. The Sikhs in the Punjab are trying to settle the Gurudwara question without the assistance of the Legislature, and I should like to know whether Government would take an attitude of entire neutrality or an attitude of sympathetic looking on, or assisting the Sikhs by legislation to obtain control over the Gurudwaras. To my mind, Sir, as a matter of public policy, we cannot leave these matters to be settled outside the Council. If we leave these matters outside the Council, they sometimes lead to very dangerous situations. Then again, the Honourable Mr. Thakurdas talked of casting off the fetters. I entirely agree with him that certain kind of fetters ought to be cast off. But when you come to the question of vested interests, as the Honourable Mr. Sethna pointed out, these priests in the Deccan have vested interests and can sue in the courts for their fees, a thing which is unknown in our part of India and possibly was never contemplated when the relations between the priests and the people were established. If the courts have gone and given judgments in that way, I think we are quite justified in coming to this Council and seeking Legislative assistance in modifying what is considered to be the law of judgments. You cannot settle it out since the custom has legal sanction by the Courts, which can only be rectified by legislative action. Under these conditions, Sir, I must support the Honourable Mr. Kale. At the same time I await with great interest a pronouncement by the Leader of the House whether these questions can be settled without the assistance of the Legislative Councils, and whether the Government is always prepared to maintain an attitude of neutrality. I shall be very greatly gratified if that is the attitude of the Government of India, because it will assist other communities to decide these questions themselves.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, in replying to the criticisms which have been passed by Honourable Members on the Bill which I moved in this Council last September, I will not detain the House for any great length of time. My Honourable friend Mr. Sethna has already replied to some of the objections raised to the Bill. I will, therefore, confine myself only to some of the more important arguments which have been advanced on the other side. I trust that my esteemed friend Mr. Khaparde though he has led the opposition to the Bill, does not oppose the principle that individual liberty should be granted to people who ask for that liberty. From the nature of the amendments of which he has given notice I gather that what he wants is that proper consideration should be given to the disturbance that would be caused to certain vested interests which have existed for generations together. I do not think that the spirit of his amendments is unreasonable, and I would not oppose his desire that the local Legislatures and the local people should be left to decide as to how effect should be given to the principle underlying the Bill. The principle underlying the Bill is that no member of the Hindu community should be compelled to engage the services of a particular priest and to indemnify him if the services of other priests are engaged. This is a sound principle of individual liberty, especially in matters spiritual and religious, as no force ought to be employed, either by law or by the community, in that behalf. With these preliminary remarks, Sir, I may reply to the criticisms of my Honourable friend with respect to what he described as public opinion on the Bill as elicited by Government. I do not mean to say, and I never meant to say, that public opinion in Bombay or in the Central Provinces was overwhelmingly in favour of the Bill. I never made that claim. I did, however, contend, and I do contend to-day,

that the balance of opinion was, on the whole, in favour of the Bill. My Honourable friend gave certain statistics with respect to the opinion from Bombay. He said that there were altogether 22 people who were consulted, and of these he said 12 were opposed to the Bill. I do not know how he made these calculations. I can quote to the House if necessary the very names of the gentlemen who have given their opinions, and according to my calculations, their number exceeds 30, and out of those 30, as many as 17 have clearly and emphatically said that they are in favour of the Bill. I give my Honourable friend the benefit of the doubt in cases in which some gentlemen have said that the Government should be neutral and they have not expressly given their own view. There are 6 or 7 gentlemen who want Government to remain neutral. There are about 8 who are entirely opposed to the Bill; but there are as many as 17 or 18 who are positively in favour of the Bill. But I will not press this point very much. What I wish to emphasise is that there is in the Deccan a very strong feeling in this matter. There was a tendency on the part of certain Honourable Members to belittle the seriousness of this feeling. My Honourable friend Mr. Lalubhai Samaldas suggested that this Bill was brought forward in this House because the Mover doubted if it would meet with the acceptance of the local Council. Nothing of the kind, Sir. It is under the Devolution Rules of the Government of India Act that this had to be brought here. All matters involving more than one province and involving civil rights have to come up before the Central Legislature. Then, my Honourable friend said that instead of helping the disorganization of village communities, we should try to conserve, protect and promote them. May I, Sir, point out that my Honourable friend is the greatest offender in this respect?

The HONOURABLE MR. LALUBHAI SAMALDAS: We do not disorganize them.

The HONOURABLE MR. V. G. KALE: My Honourable friend and the class he represents, go to our villages, draw out workmen from rural parts, disorganize the village industries and upset the whole of the social and economic life of the villages. They start some factory, sugar or some other factory, employ one or two thousand labourers there who are cut off from their social organization, and in this way they throw the whole machinery of rural organization out of gear. In this matter then, I think the charge must lie more at the door of my Honourable friend than mine. I do not, however, want to blame him. On the contrary, I will give him credit for helping the work of economic re-construction and the work of social re-adjustment. Those people who cannot find work in the villages get work in new factories. My Honourable friend is, therefore, a benefactor. However, he is not, by any means, conserving the old village organization but is rather helping in the disorganization and the re-construction of those village communities.

Then he doubted whether really any strong communal and caste feeling existed in any part of the Deccan, and whether it was not a move on the part of certain exalted gentlemen and certain small sections of the Hindu community. If he wants evidence as to the existence of this feeling, I will make him a present of a memorial which has been addressed to the Government of India, a copy of which I have in my possession at this moment, a memorial which has been signed by hundreds of people, of whom mostly are Brahmins. This is a complaint, therefore, proceeding not only from non-Brahmins but from Brahmins. Their complaint is this. They do not

[Mr. V. G. Kale.]

want to engage*the services of a particular hereditary priest; he is not qualified for doing their work; his morals are not perhaps satisfactory, he is ignorant, in some cases he is illiterate, and such a man has got to be employed for spiritual ministrations. Imagine the position of an educated man. He is compelled to engage the services of an ignorant priest. I might relate to the House a story related by one of our most orthodox and learned professors in the Deccan, the late Professor Jinsiwale. In one of his lectures, he pointed out that being a very orthodox Brahmin, he invited a number of priests on a certain religious occasion, and they were expected to give him blessings by reciting Vedic *mantras*, but owing to their ignorance they repeated certain "riks" from the Vedas which invoked curses. But because he was a Brahmin, well versed in the Vedas, he could easily detect what the Brahmins were saying

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: Are there curses in the Vedas?

The HONOURABLE MR. V. G. KALE: I should like to quote for the edification of my friend certain verses from the Vedas which invoked curses. I am sure my Honourable friend Dr. Ganganath Jha will bear me out when I say that the Vedas do contain such verses. However, the important point for consideration is, whether this Bill is essential or not. In my opening speech, I gave my reasons as to why I regard this Bill as essential. In any case, the acceptance of the principle involved in this Bill is eminently essential, and those who have been reading the newspapers from my part of the country, will see to what a pitch of intensity the ill-feeling between Brahmins and non-Brahmins has been raised in certain parts of the Presidency. My Honourable friend opposite asked Government to say whether they will find it possible to maintain an attitude of neutrality with regard to the position of the Sikhs in the Punjab. I am reminded by what he said of a similar position that has to be faced to-day in certain parts of the Deccan. Only the other day I read, and my Honourable friend Mr. Khaparde knows it, because that news has been given and been commented upon by a newspaper which is an organ of the party to which he has the honour to belong,—only the other day I read that a certain religious festival was not allowed to be held owing to communal conflict, and it was an institution which has been in existence for over a hundred years. Now, that is the position. Is this Council going to help in remedying that position or not? In my opening speech I pointed out that if this Bill were to become law, it would not involve the loss of real property of houses and landed estates granted to the priests, but it would involve no doubt the loss of that property which consists of emoluments to priests for the performance of certain religious ceremonies. Now my Honourable friend Mr. Khaparde has tabled an amendment in connection with the question of compensation. He is certainly welcome to make that proposal, and the Government of Bombay or the Government of the Central Provinces would certainly be expected to give their serious consideration to that question. But I do not think that there will be any one in this House who will take any exception to the principle underlying this Bill. The Bill is wanted, as I pointed out, not only by non-Brahmins but by a large number of Brahmins themselves. They also want individual liberty to engage the services of any priest they like. And, as the priests are not going to lose any of their landed property or other real estate, attached to their *Watans*, and as, I again point out, nearly 99 per cent. of the people living in the villages will continue for years

to come to engage the services of the hereditary priests, really speaking, there will not be any appreciable loss sustained by the hereditary priests; but on the other hand, we will be contributing to the cause of social harmony inasmuch as one serious grievance will be removed and the path will be paved for bringing about friendly relations which have now been disturbed between caste and caste in different parts of the country. With these words, Sir, I move that the Bill be taken into consideration.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir,

The HONOURABLE THE PRESIDENT: I am not quite sure that Mr. Crerar has the right to speak at this stage.

The HONOURABLE MR. J. CRERAR: I only wish, Sir, to answer the question that was put by an Honourable Member.

The HONOURABLE THE PRESIDENT: The Honourable Member ought to have done so before I called upon the Mover to reply. However, if the Honourable Member wishes to speak, I am sure the House will hear him.

The HONOURABLE MR. J. CRERAR: I merely wish to answer a question for the information of my Honourable friend opposite. He inquired whether Government had received any representations on this subject. We have received one such representation which contains substantially the same contentions as were contained in the Honourable Member's speech and forwards certain copies of opinions from Joshis for information. I shall be very glad to place the representation in his hand if the Honourable Member wishes to see it.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: It is not a question of my being interested in the matter. It is a question of the House being interested. I am not interested at all.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to amend the law relating to the right of hereditary Hindu priests to claim emoluments in respect of religious ceremonies, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will proceed to the detailed consideration of the Bill.

The HONOURABLE MR. G. S. KHAPARDE: Sir, before we proceed to the detailed consideration of the provisions of the Bill, I have a complaint to make, that the amendments which I moved at Simla are not on the Agenda paper. I am sorry to say so, but, that being so, I think it would not be proper that the discussion on this Bill should be proceeded further with. I distributed copies of my amendments at Simla and I still hold copies of these amendments but they have not been included in the Agenda and I do not think it is fair that I should be compelled to go on with this Bill in the absence of those amendments.

The HONOURABLE THE PRESIDENT: Am I to understand from the Honourable Member that he gave notice of certain amendments in Simla and those amendments have not been included?

The HONOURABLE MR. G. S. KHAPARDE: Yes, Sir, I gave notice of those amendments: they had to be put into their proper form and this was very kindly done for me by the Legislative Department.

The HONOURABLE THE PRESIDENT: I have one other question to ask the Honourable Member. Are those amendments in form or in substance the same as the amendments on the paper or are they different?

The HONOURABLE MR. G. S. KHAPARDE: They are different. The amendments of which I gave notice at Simla were more general.

The HONOURABLE THE PRESIDENT: I would ask the Secretary to state what the position is. Was notice received of those amendments?

The HONOURABLE MR. G. S. KHAPARDE: As far as I remember, Sir, this Bill came up at short notice; then when I gave notice of these amendments, they were kind enough to waive certain technical objections and to permit me to put in my amendments. That is how the position stood that day and that is how my amendments came to be put in and I hold so many copies of them that I have hastily distributed them.

The HONOURABLE THE PRESIDENT: I must ask the Secretary to state the position.

The SECRETARY OF THE COUNCIL: Sir, with your permission I make my statement. I have before me the Agenda paper of the 15th September and those amendments are not on that paper. But that does not mean that notice was not necessarily received. I have, Sir, a sort of recollection that Mr. Khaparde asked me to put certain amendments into shape after the list of business had gone out. In that case they would have been circulated. That, I think, Sir, is the position.

The HONOURABLE THE PRESIDENT: As the Honourable Member has not his amendments on the paper, I do not think I can ask the Council to go on with the Bill. We all have doubtless good memories, but I don't think we can conduct the debate on our recollection of amendments we saw last September. I think it is necessary to adjourn this debate.

The HONOURABLE MR. V. G. KALE: Sir, it would be unfair on my part to take advantage of the position in which my Honourable friend Mr. Khaparde has been landed. Certainly my sympathy goes out to him and I should not like to take advantage of the difficulty in which he finds himself.

The HONOURABLE THE PRESIDENT: Will the Honourable the Leader of the House be able to give a date or time?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: It is very difficult for me at this time to give a definite reply to that question. I shall be able, after consulting the Department, to say whether a date can be given.

The HONOURABLE THE PRESIDENT: The Honourable Member will do his best to give a date?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Yes, Sir.

The HONOURABLE THE PRESIDENT: The detailed consideration of this Bill stands adjourned on the understanding that, if possible, a near date will be given. After all, the Honourable Mover is not in a very strong position. He could have moved his Bill some weeks ago but did not.

STATEMENT OF BUSINESS.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, the next meeting of this Council for official business will be held on Tuesday, the 27th February. I am not at present in a position to make any definite announcement as to the official business to be brought forward on that day, but it is probable that the Prisoners (Amendment) Bill and two Bills which were recently passed by the Legislative Assembly and laid on the table in this Chamber on Tuesday will be taken into consideration on that date. The Bills I refer to are:

A Bill to amend certain enactments and to repeal certain other enactments, and

A Bill to consolidate the law relating to the Government Paper Currency.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, may I inquire as to when the measures known as the Racial Distinctions Bill is likely to come up before this House?

The HONOURABLE THE PRESIDENT: Can the Honourable Member give the House any information?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): That measure passed through the Legislative Assembly only yesterday. We shall, as early as possible, arrange definitely for a discussion.

The HONOURABLE SAIYID RAZA ALI: In fact, copies were laid on the table this morning. What I wanted to know was whether it is likely to be taken on the 27th or after that date.

The HONOURABLE THE PRESIDENT: The Honourable Member has said that he will let the House know as soon as he is able to. Perhaps the Honourable Member will be able to say on Monday. It is a matter of some interest to the House.

The Council then adjourned till Eleven of the Clock on Monday, the 26th February, 1928.