

19th February, 1926

THE

LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

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(10th February to 1st March, 1926)

FOURTH SESSION

OF THE

SECOND LEGISLATIVE ASSEMBLY, 1926



DELHI
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1926

Legislative Assembly.

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THE HONOURABLE MR. V. J. PATEL.

Deputy President :

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MR. ABDUL HAYE, M.L.A.

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MR. ABDUL HAYE, M.L.A.

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LEGISLATIVE ASSEMBLY.

Friday, 19th February, 1926.

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

QUESTIONS AND ANSWERS.

REMOVAL OF THE SOUTH INDIAN RAILWAY WORKSHOP FROM PODANUR TO TRICHINOPOLY, ETC.

872. ***Mr. R. K. Shanmukham Chetty**: (a) Is it a fact that the South Indian Railway workshop at Podanur is to be completely removed to Trichinopoly?

(b) Is it proposed to rebuild the railway station at Coimbatore and make it the junction instead of Podanur which is the junction at present? If so, will Government be pleased to state when the work is likely to be undertaken and what alterations are proposed to be made in the present station at Coimbatore?

Mr. G. G. Sim: (a) Yes.

(b) The Government have under consideration a proposal to divert the main line through Coimbatore, and at the same time to extend the metre gauge from Podanur to Coimbatore, but until the results of the investigation now in hand are received and considered it is not possible to say whether the proposal will be carried out.

CONSTRUCTION OF THE POLLACHI-DINDIGUL LINE.

873. ***Mr. R. K. Shanmukham Chetty**: Will Government be pleased to state what progress has been made in the construction of the Pollachi-Dindigul line and when it is likely to be completed?

Mr. G. G. Sim: Land acquisition and preliminary construction arrangements are in hand. It is anticipated that the line will be completed in 1927.

CONSTRUCTION OF NEW RAILWAY LINES IN THE COIMBATORE DISTRICT.

874. ***Mr. R. K. Shanmukham Chetty**: Will Government be pleased to state whether it is proposed to construct any new railway lines in the Coimbatore District, and if so, the details of the same?

Mr. G. G. Sim: (1) The Dindigul-Pollachi line is under construction on the metre gauge.

(2) An investigation is being carried out for a proposal for the diversion of the broad gauge main line through Coimbatore together with an extension of the metre gauge from Podanur to Coimbatore and the conversion of the Coimbatore-Mettupalayam section to metre gauge.

(3) The extension of the Dindigul-Pollachi line to Palghat is under survey.

(4) Other proposals under consideration for construction on the metre gauge are:

- (1) Erode to Satyamangalam,
- (2) Nanjangud-Satyamangalam. Tiruppur-Palni,
- (3) Mettupuliyam-Satyamangalam.

CONSTRUCTION OF A RAILWAY FROM SALEM TO ATTUR.

875. ***Mr. R. K. Shanmukham Chetty**: (a) Is it a fact that the proposal to construct a railway line from Salem to Attur has been pending for a long time? If so, will Government be pleased to state why the proposal is still kept pending?

(b) Will Government be pleased to state whether they will take steps to undertake at an early date the construction of the Salem-Attur line?

Mr. G. G. Sim: (a) The Honourable Member is referred to the reply given to a similar question on the 22nd January, 1925.

(b) A detailed project of the Salem-Attur-Vriddachalam Railway is at present under preparation.

If on receipt of the estimates the Government of India consider that the construction of the line is financially justifiable no delay will occur in sanctioning it.

Mr. R. K. Shanmukham Chetty: When do they expect to receive estimates for this line?

Mr. G. G. Sim: I am not quite sure: I think it is next year, Sir.

CONSTRUCTION OF THE KODAIKANAL ROAD-THENI RAILWAY LINE.

876. ***Mr. R. K. Shanmukham Chetty**: (a) Will Government be pleased to state whether it is proposed to construct a line direct from Madura to Theni instead of the Kodaikanal Road-Theni line which was originally proposed?

(b) If so, will Government please state the reasons why the original proposal was abandoned in favour of the new proposal?

(c) Is it a fact that the Kodaikanal Road-Theni line is about 10 miles less than the Madura-Theni line and that the former line would pass through a more fertile and populous tract of country?

(d) What is the estimated cost of the two lines respectively?

(e) Do Government propose to reconsider the two schemes and to construct the Kodaikanal Road-Theni line as originally contemplated?

(f) Have the Local Government been consulted on these proposals, and if so, will Government please lay a copy of the Local Government's opinion on the table?

Mr. G. G. Sim: (a) to (e). The project as now finally adopted and sanctioned by Government is for a line from Madura *via* Theni to Bodinayakanur, and the Honourable Member is referred to the proceedings of the meetings of the Standing Finance Committee for Railways dated 12th, 13th and 14th November, 1925, Volume II, No. 4, for the reasons which influenced the adoption of the present alignment and for the estimated cost of the project. An up-to-date estimate of the Kodaikanal Road-Theni line is not available.

(f) A copy of the Local Government's opinion is placed on the table.

PUBLIC WORKS DEPARTMENT.

Mis.

G. O. No. 44-Ry.

Dated 15th June, 1922.

76-Ry., dated 28th April, 1920.

Read also :—

FROM THE PRESIDENT, DISTRICT BOARD, MADURA, R. O. C. No. 163-G.-20, DATED 24TH MARCH, 1922.

ORDER.—Mis. No. 44-Ry., dated 15th June, 1922.

For the reasons given in the letter read above, the District Board of Madura requests a reconsideration of the orders issued in G. O. No. 76-Ry., dated 28th April, 1920.

2. In view of the altered conditions arising out of the construction of the Kunnur bridge now brought to light, the prospect of the increased traffic held out on account of the development of the country served by the Madura-Theni-Bodinayakanur Railway and having regard to its utility on administrative grounds, the Government approve of the District Board's proposal to construct this line in preference to the Kodaikanal Road Periyakulam Railway.

3. The Government also accord their sanction for the revision of the traffic survey of 1913-14 at a cost of about Rs. 3,000 to be provided by the District Board from their accumulated railway cess.

4 A copy of these proceedings will be forwarded to the Railway Board.

(By order of the Governor in Council).

E. BARNARDISTON,

Secretary to the Government for Railways.

To

The President, District Board, Madura.

The Agent, South Indian Railway.

COPY OF LETTER FROM R. FOULKES, ESQ., PRESIDENT, DISTRICT BOARD, MADURA, R. O. C. No. 163-G.-20, DATED 24TH MARCH, 1922.

In continuation of this office letter R. O. C. No. 163-G. of 1920, dated 21st September, 1920, requesting Government to extend the time fixed in their order Nos. 76-Ry., dated 28th April, 1920, and 105-Ry., dated 19th August, 1920, for the District Board to come to a definite conclusion regarding the financing of the Kodaikanal Road-Periyakulam and the Dindigal-Palghat Railways, I have the honour to submit herewith a copy of the District Board's Resolution No. 428 of 1921-22, dated 18th February, 1922, requesting Government to reconsider the orders passed in G. O. No. 76-Ry., dated 28th April, 1920, in which the Board is advised to take up the construction of the Kodaikanal Road-Periyakulam Railway in preference to the Madura-Bodinaikkanur line, and to state as follows :—

2. As will be seen from the resolution, the Board is of opinion that the Madura-Theni-Bodinaikkanur route should be constructed at once in preference to the Kodaikanal Road-Periyakulam route. It is specially urged at the outset that this change of opinion should not be regarded as capricious but as the result of a careful study of the progress of events during the last two years. An attempt will be made below to show that the whole situation has been so changed in this period, as to leave no doubt that the line proposed in the Resolution is the only one that can now be thought.

3. A glance at the map of the District will show that the Kodaikanal Road-Periyakulam route runs through a strip of country bounded on the north by the Palm Hills and on the south by the Vaigai river and the Nagamalai Hills. These physical features effectually prevent the free flow of traffic to the Railway from both sides. On the south there are only two or three places at which the Nagamalai Hills

can be crossed and even then carts are immediately confronted with the broad sandy bed of the Vaigai river which forms a formidable obstacle. Little or no traffic can therefore be expected to reach this Railway from the country south of these hills. Moreover, the country lying between the Palni Hills and the Vaigai river is already extensively cultivated and there is not room for much further development here. Apart from the traffic originating in the Cumbum Valley and Travancore, there is therefore no great future for this Railway, nor for a large part of the country which it will serve, though it is not denied that the existing traffic may be sufficient to make the line profitable.

4. On the other hand, the **Madura-Theni-Bodinaickanur** route runs through the heart of the great Kallar-nad. The rapid development of all this country, aided by the beneficial schemes which **Government** are undertaking to reclaim the Kallars, is certain, and in fact, development has already made remarkable strides during the last two years. Cultivation can be vastly extended and in fact much of it for such crops as cotton, for which the soil is particularly suited, is only possible if cheap transport can be made available. Just beyond the Kallar-nad lies the Zamindary of Guntamanickanur which has recently been purchased by Mr. P. D. Patel of Bombay, who intends developing its resources on a large scale. The proposed line will run along the northern boundary of the Zamindary and thus the produce of its fine forests will be made available for other parts of the district. Mr. Patel's plans include the cultivation for cotton of about 30,000 acres of land which now lie waste. Apart, again, from traffic originating in the Cumbum Valley and Travancore, the certain and rapid development of a far greater area of country secures for this line future prospects which the alternative route can never attain. Nothing can aid the peaceful settlement of the Kallars in so great a measure as cheap transport. The Kallars have, for generations, been a terror to this and the surrounding districts, and we have been much influenced in our decision by the political and economic importance of a railway in their midst.

5. In former reports it has been urged that the volume of traffic is greater on the road between Periakulam and Kodaikanal Road Railway station, than on the Theni-Madura Road. While admitting the truth of this statement, the Railway Officer in Charge of the traffic survey of the former route foresaw in 1906 that when the Kunnur Bridge was built, much of this traffic would be diverted direct to Madura along the Theni-Madura Road. The Bridge has since been built, and the result has justified his prediction. The volume of traffic is now probably equal on both roads. It will, however, shrink to insignificance on the first named road, when the Bodinaickanur-Theni-Madura Railway is constructed for the following reason.

6. It will be noted that I have spoken as a whole of the traffic originating in the Cumbum Valley and Travancore, in its relation to both Railways. That is because the whole of this traffic must come to Theni, a point common to both Railways. But it must be clearly borne in mind that 95 per cent. of this traffic is destined for Tutacurin Harbour, or at any rate for places south of Madura on the South Indian Railway. It is obviously advantageous therefore that it should meet the South Indian Railway at Madura rather than at Kodaikanal Road, thus saving an unnecessary lead of 25 miles. It should be explained that had the Kunnur bridge been built 30 years ago this traffic would never have gone to Kodaikanal road at all, as it has been doing all these years.

7. It is hoped that the considerations set forth above will convince Government that the District Board has the strongest justification for now deciding on the construction of the Madura Theni-Bodinaickanur Line, in preference to the Kodaikanal Road-Periyakulam Line, and I earnestly request that Government will be good enough to reconsider the orders passed in G. O., No. 76-Ry., dated 28th April, 1920, and allow the Board to construct the former line as early as possible.

8. As regards the financial aspect we anticipate no great difficulty. I propose to address you again on the subject. But before that can be done, it is necessary that a revision of the traffic survey which was carried out in 1913-1914 should be undertaken at once, in order that figures more nearly approximating present conditions may be ascertained. A sum of about Rs. 3,000 may be required for this purpose, and I request that Government may be pleased to sanction an allotment from our accumulated Railway cess. The Agent of the South Indian Railway has already promised to depute an officer for the work whenever he may be required.

9. In conclusion, I would like to say that I have discussed the subject of this line at length with the Managing Director, the Agent and the General Traffic Manager of the South Indian Railway and with Colonel Barnardiston and Mr. Izatt of the Railway Board. They have all agreed that the considerations which have moved the District Board to decide on the construction of this line are thoroughly sound.

PROCEEDINGS OF THE DISTRICT BOARD, MADURA.

Dated the 18th February, 1922.

Proceedings No. 428 of 1921-22.

R. FOULKES, Esquire

President.

* * * * *
 READ :—President's proposal to address Government to reconsider their orders advising the District Board to take up the construction of the Ammayanayakanur-Bodinayakanur Line in preference to the Madura-Bodinayakanur Line, and to allow the District Board to construct the Madura-Bodinayakanur Line *via* Usilampatti with a branch from Theni to Periyakulam.

RESOLUTION.—The Board resolves to address Government to reconsider their order dated 26th April, 1920, in view of the altered circumstances which have arisen since that order was passed, and to allow the District Board to construct a line from Madura to Bodinayakanur *via* Usilampatti and Theni, with a branch to Periyakulam.

(True Extract.)

R. FOULKES,

President.

LOCATION OF TROOPS AT PODANUR IN SOUTH INDIA.

877. ***Mr. R. K. Shanmukham Chetty**: Is it proposed to station troops at Podanur (South India), and if so, will Government be pleased to state the reasons for doing so?

Mr. E. Burdon: The answer to the first part of the question is in the negative. The second part does not arise.

INDIAN INFANTRY AT HONGKONG.

878. ***Mr. R. K. Shanmukham Chetty**: (a) Is it a fact that a battalion of Indian infantry and a detachment of a transport corps form part of the British garrison at Hongkong?

(b) If so, will Government be pleased to state why the battalion of Indian infantry is stationed at Hongkong?

Mr. E. Burdon: (a) A battalion of Indian infantry is stationed at Hongkong. The transport depôt is stationed at Kowloon in South China.

(b) The attention of the Honourable Member is invited to the reply given on the 26th August, 1925, to the supplementary questions to starred question No. 105 and also to the reply given on the 31st August 1925, to part (b) of starred question No. 245.

Mr. Gaya Prasad Singh: How long has this battalion been stationed in Hongkong?

Mr. E. Burdon: I cannot say exactly, but it was long before the war.

ALIGNMENT OF THE DINAJPUR RUHIA RAILWAY.

879. ***Mr. Kumar Sankar Ray**: Will the Government be pleased to state if the proposed alignment of the Dinajpur Ruhia Railway has been finally adopted? If not, do the Government propose to reconsider the matter to see if a shorter route can be adopted which may also reduce the number of bridges required to be constructed for the line?

Mr. G. G. Sim: The Agent, Eastern Bengal Railway, has been asked to obtain the approval of the Government of Bengal before finally adopting the proposed alignment, which was selected as forming the most suitable means of opening out this portion of the country.

INDIAN REPRESENTATION ON THE GOVERNING BODY AND EXECUTIVE COMMITTEE OF THE LADY HARDINGE MEDICAL COLLEGE, DELHI.

880. ***Lala Duni Chand:** (a) Is it a fact that a large number of questions protesting against the existing management of the Lady Hardinge Medical College and Hospital for Women, Delhi, have been asked during the last four Sessions of the Legislative Assembly?

(b) Is it a fact that the present Governing Body and Executive Committee of the said institution consist almost entirely of Government officers and English persons?

(c) If the reply to (b) be in the affirmative do Government propose to take steps to have adequate Indian representation on the Governing Body and the Executive Committee?

Mr. J. W. Bhore: (a) Yes.

(b) No. The Governing Body consists of 6 officials, and 8 non-officials, of whom 5 are Indians, and the Executive Committee of 3 officials, 3 non-officials, of whom one is an Indian.

(c) Does not arise.

Lala Duni Chand: How much more time and how much more agitation do Government require before they listen even on a matter like this?

Mr. J. W. Bhore: I confess I do not follow the Honourable Member in the least.

Lala Duni Chand: My point is that for the last two years numerous questions have been put in this House . . .

Mr. President: That is a speech which the Honourable Member is making. The Honourable Member is entitled to put a question.

Lala Duni Chand: I am trying to make myself clear. I was not clear.

Mr. President: Will the Honourable Member put a question?

Lala Duni Chand: I wanted to put a question after this.

Mr. President: He cannot preface his question by remarks.

GOVERNMENT GRANT TO THE LADY HARDINGE MEDICAL COLLEGE, DELHI.

881. ***Lala Duni Chand:** (a) Is it a fact that the annual Government grant-in-aid to the Lady Hardinge Medical College and Hospital which is votable by the Legislative Assembly, has been increased from Rs. 2 lakhs to about 4 lakhs?

(b) Are there any rules made by the Government laying down the conditions and the circumstances under which the said institution will be eligible to claim or earn the grant-in-aid from the Government and if there are no such rules do Government propose to frame the necessary rules and to enforce them in future?

Mr. J. W. Bhore: (a) The annual recurring grant has been increased from Rs. 2 lakhs to Rs. 3,11,000 for a period of four years with effect from the next financial year. A further annual grant of Rs. 3,281 is being sanctioned for the insurance of the College buildings against fire.

(b) Yes. An extract from the letter in which certain conditions were laid down by Government is placed on the table.

Extract from a letter from the Secretary to the Government of India, Department of Education, Health and Lands, to the Honorary Secretary to the Governing Body of the Lady Hardinge Medical College for Women, Delhi, No. 869-H., dated the 20th June, 1925.

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2. The Government of India are prepared to accept these recommendations subject to the willingness of the Governing Body to conform to the following conditions:—

- (1) The Governing Body should be reinforced by (a) three members of the Indian Legislature (this has already been agreed to, and (b) one prominent businessman of Delhi, one prominent Indian resident of that city, if a suitable person be available, and one local Medical Officer. All these members should be nominated by the Department of Education, Health and Lands.
- (2) The present *ex-officio* Honorary Secretary and Honorary Treasurer should be replaced by two officers to be specially nominated for the purpose by the said Department of Education, Health and Lands.
- (3) The Governing Body should appoint a sub-committee consisting of the Chief Commissioner, Delhi, the local business-man and the Medical Officer nominated under (1) and the Honorary Secretary to exercise closer control over the business of the College.
- (4) The funds and investments of the Governing Body should be held in the Imperial Bank of India as at present and in Government securities.
- (5) No further outlay should be incurred of the nature of new construction or additional equipment unless and until provision has been made or adequately guaranteed for the associated annual recurring cost as well as for the initial expenditure.
- (6) The interest on any future donation should be available for ordinary recurring expenditure of the institution unless it is intended for a specific purpose.
- (7) Funds earmarked for works should not be diverted to meet other expenditure.
- (8) Distinction should be made between the general funds of the College and special endowments for specific purposes, such as scholarships, bursaries and medals, and these should be shown in separate sections in the budget.
- (9) The buildings of the institution should be insured against fire, and
- (10) A more experienced and responsible official than the present accountant should be employed to disburse the funds and maintain the accounts of the institution.

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AUDIT OF THE ACCOUNTS OF THE LADY HARDINGE COLLEGE, DELHI.

882. ***Lala Duni Chand:** (a) Is it a fact that hitherto the accounts of the Lady Hardinge College and Hospital have been audited by the Government Local Fund Examiner but that recently a private English firm of chartered accountants has been appointed to audit the accounts?

(b) If the reply to (a) be in the affirmative, will the Government be pleased to state the reasons for the change?

Mr. J. W. Bhore: (a) and (b). Prior to 1921 the accounts of the Lady Hardinge Medical College and Hospital were audited by a firm of chartered accountants, but during the years 1921 to 1924 the audit was entrusted to the Examiner of Local Fund Accounts, Punjab, as a measure of economy.

In March 1925, a committee consisting of Sir Purshotamdas Thakurdas, Lieutenant-Colonel J. D. Graham and Mr. T. Ryan, which was set up by the Government of India to assess the financial requirements of the College and Hospital correctly, advised that there would be advantages in entrusting the audit in connection with an institution of this character, as at first, to a firm accustomed to deal with ordinary commercial affairs and the Government of India and the Governing Body of the Institution accepted this view. The audit was accordingly again entrusted to a firm of chartered accountants.

LEVY OF HEAVY CHARGES IN THE LADY HARDINGE HOSPITAL,
DELHI.

883. ***Lala Duni Chand:** (a) Is it true that in the Lady Hardinge Hospital various kinds of charges such as price of medicines, consulting fees, operation fees, and charges for medical attendance are made during hospital hours from the patients?

(b) Is it true that sometimes as much as Rs. 200 are charged on account of an operation fee in a single case of which one-half goes to the institution and the other half to the doctor?

(c) Are Government aware of the existence of a strong feeling of dissatisfaction against the heavy charges?

Mr. J. W. Bhore: The Honourable Member will, I am sure, realise that it would be impossible for the Government to undertake to satisfy all requests for information in regard to matters connected with the administration of institutions not directly controlled by Government. In this particular case I have endeavoured to obtain the information required, but I hope the Honourable Member will not regard it as a precedent.

(a) Such charges are made from patients in the private cottage wards, not from patients in the general wards, even though the latter are accommodated in *purdah* cubicles.

(b) In the cottage wards, a patient whose family income is Rs. 1,500 a month or more, is charged Rs. 200 for a major surgical operation. Half of this goes to the institution, and half to the surgeon performing the operation.

(c) The reply is in the negative. In spite of the charges mentioned above, which have been in force for some years, the demand for admission to the paying quarters of the Hospital is embarrassingly great. There are no "forced" charges, as any patient can be admitted, if she wishes, to a free *purdah* ward, and be treated there free of all charges.

Lala Duni Chand: Is it not true that the charging of heavy fees during hospital hours lessens the utility of the institution?

Mr. J. W. Bhore: My Honourable friend has perhaps not paid attention to the reply which I have just given which will make it perfectly clear to him that in spite of the charges levied for private wards the accommodation cannot meet the demands.

The Reverend Dr. E. M. Macphail: Sir, is it not directly to the advantage of the hospital that paying patients should be admitted to a small proportion of the available beds and provide a large proportion of the maintenance expenses of the hospital?

Mr. J. W. Bhore: Perhaps my Honourable friend Lala Duni Chand would answer that question for me.

STAFF OF THE LADY HARDINGE MEDICAL COLLEGE, DELHI, ETC.

884. ***Lala Duni Chand**: Will the Government be pleased to place a statement on the table showing:

- (a) the number of Indian members of the senior and junior staff both in the Lady Hardinge College and Hospital as compared with the number of English members of the staff;
- (b) the number of scholarships held by the Indian and other students respectively;
- (c) the total cost of the building of the College and Hospital;
- (d) the yearly cost of the maintenance of the building and the yearly charges for the supply of electricity;
- (e) the qualifications of the incumbents in charge of the building and the electrical appliances and their salaries;
- (f) the amount spent on purchase of stores and for maintenance of building, electricity and gas plant during the last two years;
- (g) whether these stores are purchased through the Indian Stores Department;
- (h) the hospital income under different heads, *i.e.*, the consultation fee, price of medicine sold, operation fees and Serai charges;
- (i) the amounts paid to different doctors together with their names on account of their share of fees, etc., during the last 2 years;
- (j) the number of applications for admission to the College refused during the last two years;
- (k) the copy of the rules dealing with the service conditions of the Indian members both senior and junior from whom no special agreements are taken?

Mr. J. W. Bhore: The Honourable Member is referred to the first part of the reply given by me to his question No. 883. If the Honourable Member is in possession of any reliable information pointing to any irregularity in the administration of this institution of sufficient importance to affect the question of the Government grant, I shall be glad if he will bring it to my notice, and I shall be happy to go into the matter.

LACK OF RAISED PLATFORMS AND WAITING ROOMS FOR FEMALE PASSENGERS AT NEROLE STATION ON THE AHMADPUR-KATWA RAILWAY.

885. ***Mr. Amar Nath Dutt**: Is it a fact that there are no raised platforms and waiting rooms for female passengers at Nerole station on the Ahmadpur-Katwa Railway? If so, do the Government propose to take steps to have raised platforms and waiting rooms for female passengers constructed at the station?

LACK OF WAITING ROOMS OR WAITING SHEDS FOR PASSENGERS AT KOMARPUR STATION ON THE AHMADPUR-KATWA RAILWAY.

886. ***Mr. Amar Nath Dutt**: Is it a fact that there is no waiting room or waiting shed for passengers at Komarpur station on the Ahmadpur-Katwa Railway? If so, do the Government propose to have waiting rooms or sheds for passengers constructed at the station at any early date?

Mr. G. G. Sim: I propose to reply questions Nos. 885 and 886, together.

Government have no information about the inconveniences referred to at stations on the Ahmadpur-Katwa Railway, which is the property of the Ahmadpur-Katwa Railway Company, but will send a copy of the questions and answer to the Managing Agents.

RAILWAY BOOK STALLS.

887. ***Mr. Amar Nath Dutt:** Has the attention of the Government been drawn to an article that appeared in the *Forward*, page 11, dated Calcutta, the 11th July, 1925, on the subject of railway station bookstalls? If so, do Government propose to invite open tenders from merchants desirous of taking the contract for bookstalls on railway stations?

Mr. G. G. Sim: Government have seen the article referred to.

The matter is within the competence of the Agents of Railways.

GRANT OF AN ALLOWANCE FOR EXTRA WORK TO THE ITEM-WORKERS IN THE MONEY ORDER DEPARTMENT IN THE OFFICE OF THE DEPUTY ACCOUNTANT GENERAL, POSTS, CALCUTTA.

888. ***Mr. Amar Nath Dutt:** Is it a fact that the item-workers of the Money Order Department in the office of the Deputy Accountant General, Posts, Calcutta, have to work extra hours at the enhanced maximum rate almost throughout the whole year without any overtime allowance and that there is a shortage in the numerical strength of the staff sanctioned for the Department? If so, who is responsible for this? Do Government propose to pay an allowance for this extra work?

GRIEVANCES OF THE EMPLOYEES OF THE MONEY ORDER DEPARTMENT IN THE OFFICE OF THE DEPUTY ACCOUNTANT GENERAL, POSTS, CALCUTTA.

890. ***Mr. Amar Nath Dutt:** Is it a fact that Mr. Lalit Mohan Mustaphi, S.A.S., when in charge of the Money Order Department in the office of the Deputy Accountant General, Posts, Calcutta, passed a comptometer allowance bill, deducting the amount for the period of gazetted holidays on 1st and 2nd July, 1925? If so, will the Government be pleased to state the reasons for his doing so?

WITHHOLDING OF MEMORIALS OF THE LOWER DIVISION MEN IN THE OFFICE OF THE ACCOUNTANT GENERAL, POSTS AND TELEGRAPHS, CALCUTTA.

891. ***Mr. Amar Nath Dutt:** Are the Government aware that memorials submitted by the Lower Division men to the Government of India representing their legitimate grievances are being all along withheld by the Accountant General, Posts and Telegraphs, Calcutta? If so, do Government propose to make an early inquiry into this?

The Honourable Sir Basil Blackett: I propose to answer questions Nos. 888, 890 and 891 together.

I would refer the Honourable Member to the replies given by me on the 7th and 14th September, 1925, to similar questions put by him.

CASES IN WHICH EXTRAORDINARY LEAVE WITHOUT ALLOWANCE CAN BE GRANTED TO GOVERNMENT SERVANTS.

889. ***Mr. Amar Nath Dutt:** Will the Government please state whether under rule 85(a) of the Fundamental Rules any officer or Superintendent can refuse leave on full average pay and sanction extraordinary leave without allowance, to any assistant under them on emergent occasions, though there be sufficient leave at his credit to cover the period of his absence? If the reply be in the affirmative, will Government please state the circumstances under which the sanctioning authority is justified in doing so?

The Honourable Sir Basil Blckett: Extraordinary leave can only be granted when no other leave is by rule admissible.

PROVISION OF LATRINES IN THE CARRIAGES OF THE TRAINS RUNNING ON THE AHMADPUR-KATWA AND THE BURDWAN-KATWA RAILWAYS.

892. ***Mr. Amar Nath Dutt:** Is it a fact that there are no privies and latrines in the carriages of the trains running on the Ahmadpur-Katwa and the B. K. Railways? If so, do the Government propose to have this inconvenience removed early?

Mr. G. G. Sim: Government have no information and in view of the fact that each of the lines is only 33 miles in length they do not propose to take any action.

REDUCTION OF PASSENGER FARES ON THE AHMADPUR-KATWA AND THE BURDWAN-KATWA RAILWAYS.

893. ***Mr. Amar Nath Dutt:** Is it a fact that the rate of passenger fares per mile on the Ahmadpur-Katwa and the B. K. Railways is higher than that of other Railways? If so, do the Government propose to have the higher rates on these lines reduced as has been done on other Railways?

Mr. G. G. Sim: Intermediate and third class fares charged on the Ahmadpur-Katwa and Burdwan-Katwa Railways are higher than those charged generally on other Railways, but the financial results of working these Railways do not justify any reduction.

POSTING OF AN ANGLO-INDIAN GUARD TO SUPERVISE THE WORK OF PASSING TRAINS PERFORMED BY INDIAN STATION MASTERS ON THE EASTERN BENGAL RAILWAY.

894. ***Mr. Amar Nath Dutt:** (a) Will the Government be pleased to state if it is a fact that the Eastern Bengal Railway authorities posted an Anglo-Indian guard with only train passing knowledge to supervise Indian station masters who have all along been found competent in passing trains at the time of crossing of special and other trains?

(b) If so, will the Government be pleased to state the reason for considering the Indian station masters not competent to be entrusted with such responsible work?

Mr. G. G. Sim: (a) and (b). Government have no information. The matter is one in which they do not interfere.

GRANT OF A LOCAL ALLOWANCE TO THE CLERKS ATTACHED TO THE
GOODS SHEDS OF THE EASTERN BENGAL RAILWAY IN CALCUTTA
AND CHITPUR.

895. ***Mr. Amar Nath Dutt:** (a) Will the Government be pleased to state if the clerks attached to the goods sheds in Calcutta and Chitpur of the Eastern Bengal Railway are considered as ministerial staff?

(b) If so, will the Government be pleased to state if those ministerial staffs are allowed the local allowance allowed to other ministerial staffs serving in the Eastern Bengal Railway's offices in Calcutta?

(c) If not, why not?

Mr. G. G. Sim: The Honourable Member is referred to the reply given to a somewhat similar question No. 248 asked by him on the 26th January, 1925.

INCREASE OF STAFF ON THE EASTERN BENGAL RAILWAY.

896. ***Mr. Amar Nath Dutt:** (a) With reference to the reply to starred question No. 123 of 23rd January, 1925, of Khan Bahadur Sarfaraz Hussain Khan will the Government be pleased to state if the Eastern Bengal Railway authorities have since posted menial staff in addition to assistant station masters on the B. S. B. section due to the increase in the running of trains?

(b) If not, why not?

Mr. G. G. Sim: (a) Government understand that the diversion of traffic has been much reduced. Additional staff has been posted to the extent considered necessary.

(b) Does not arise.

PAY OF ANGLO-INDIAN TICKET COLLECTORS POSTED TO SANTAHAR ON THE
EASTERN BENGAL RAILWAY.

897. ***Mr. Amar Nath Dutt:** (a) Will the Government be pleased to state if any Anglo-Indian ticket collectors have been appointed and posted to Santahar, and if so, on what pay?

(b) What is the scale of pay for Indian ticket collectors posted to Santahar?

(c) Are the Anglo-Indian ticket collectors posted to Santahar given higher pay than that of the head ticket collector under whom they serve, and if so, will the Government be pleased to state the reason for making such distinction?

Mr. G. G. Sim: I propose to answer questions Nos. 897, 900, 901 and 905 together. Government have no information.

POSTING OF EXTRA STAFF TO COPE WITH THE INCREASED PARCEL
TRAFFIC ON THE EASTERN BENGAL RAILWAY.

898. ***Mr. Amar Nath Dutt:** (a) Are the Government aware that the parcel traffic of the Eastern Bengal Railway *via* Santahar and Parbatipur has been doubly increased?

(b) If so, will the Government be pleased to state if the Eastern Bengal Railway authorities have posted sufficient extra staff to cope with the extra work?

(c) If not, why not?

Mr. G. G. Sim: (a) and (b). Government have no information.
(c) The matter is within the competence of the Agent.

RUNNING ROOM FOR EUROPEAN AND ANGLO-INDIAN GUARDS AT AMINGAON ON THE EASTERN BENGAL RAILWAY.

899. ***Mr. Amar Nath Dutt:** (a) Will the Government be pleased to state if it is a fact that the Eastern Bengal Railway authorities have sanctioned about Rs. 30,000 for the construction of a pucca building for European and Anglo-Indian guards' running room at Amingaon?

(b) If so, will the Government be pleased to state why no action was taken by the authorities to provide better accommodation for Indian guards?

Mr. G. G. Sim: (a) and (b). Government have no information on the subject, but a copy of the question and answer will be sent to the Agent, Eastern Bengal Railway, for such action as he may consider necessary.

WORKING HOURS OF THE TRANSHIPMENT STAFF AT SANTAHAR ON THE EASTERN BENGAL RAILWAY.

†900. ***Mr. Amar Nath Dutt:** With reference to Government reply to starred question No. 727 of September session 1925, will the Government be pleased to inquire and inform this House whether the transhipment staff of Santahar are made to work more than 60 hours per week in spite of the orders issued by Government to State lines limiting the working hours to 60 hours per week?

SUPPLY OF OVERCOATS TO THE STAFF OF THE TRAFFIC DEPARTMENT OF THE EASTERN BENGAL RAILWAY EMPLOYED ON HILL STATIONS.

†901. ***Mr. Amar Nath Dutt:** (a) Will the Government be pleased to state if it is a fact that the Eastern Bengal Railway authorities supply warm overcoats to the train examining staff?

(b) If so, will the Government be pleased to state why the train staff employed under the Traffic Department of the Eastern Bengal Railway, who are to work on hill sections are not provided with such warm overcoats and do the Government propose to sanction warm overcoats to the staff under the Traffic Department working on hill sections?

MESSRS. SORABJEE AND COMPANY'S REFRESHMENT ROOMS ON THE EASTERN BENGAL RAILWAY.

902. ***Mr. Amar Nath Dutt:** (a) Will the Government be pleased to state how many refreshment rooms there are on the Eastern Bengal Railway managed by Messrs. Sorabjee & Co.?

(b) What rent is being paid by Messrs. Sorabjee & Co. for occupying those rooms to the Eastern Bengal Railway?

(c) What rent is being realised from other stall keepers and station vendors employed on the Eastern Bengal Railway?

(d) Is any licence fee paid by Messrs. Sorabjee & Co. in proportion to the fees realised from other vendors?

(e) Are Messrs. Sorabjee & Co. allowed to carry their stores, etc., free of freight over the Eastern Bengal Railway?

†For answer to this question see answer to question No. 897.

(f) If the reply to part (e) is in the affirmative, will the Government be pleased to state whether Messrs. Sorabjee & Co. are selling articles to the public from their refreshment rooms other than to *bona fide* passengers and carrying on a trade at the cost of the Railway?

Mr. G. G. Sim: Government have no information.

GRANTS MADE TO CHRISTIAN MINISTERS OF RELIGION BY THE EASTERN BENGAL RAILWAY.

903. ***Mr. Amar Nath Dutt:** (a) Will the Government be pleased to state if any sum was spent as a grant in aid for religious purposes by the Eastern Bengal Railway authorities?

(b) If so, what was the amount and the particular case for which it was spent?

Mr. G. G. Sim: (a) and (b). The Eastern Bengal Railway authorities pay monthly Rs. 150 to the Roman Catholic Chaplain, Sealdah, Rs. 135 to the Church of England clergyman, Kanchrapara, and Rs. 100 to the Roman Catholic priest, Saidpur.

EXPENDITURE INCURRED ON RAILWAY SCHOOLS BY THE EASTERN BENGAL RAILWAY.

904. ***Mr. Amar Nath Dutt:** (a) Is it a fact that Rs. 64,597 were spent during 1924-1925 by the Eastern Bengal Railway as net cost of railway schools?

(b) If so, will the Government be pleased to state the names of the schools for which the amount was spent?

Mr. G. G. Sim: No, Rs. 22,334 were spent from Revenue on railway schools during 1924-25.

4 European and Anglo-Indian, 11 Indian and 3 technical schools are maintained by the Railway. Details relating to individual schools are not shown in the statements submitted to the Railway Board by Railways.

GRIEVANCES OF GUARDS ON THE EASTERN BENGAL RAILWAY.

†905. ***Mr. Amar Nath Dutt:** (a) Will the Government be pleased to state what rest on an average is allowed at headquarters to guards working on the local trains from Sealdah on the Eastern Bengal Railway?

(b) Is it a fact that the guards stationed in Calcutta suffer great difficulties for want of quarters?

(c) If so, will the Government be pleased to state when they are going to remove their grievances?

(d) Is it a fact that Indian guards are posted to work as indoor assistant station masters at Sealdah station by the Eastern Bengal Railway for unlimited periods by which they lose their mileage allowance?

(e) If so, do the Government propose to grant an allowance to those men to compensate their loss?

* For answer to this question see answer to question No. 897.

ALLOWANCES OF TRAVELLING TICKET COLLECTORS ON THE EASTERN BENGAL RAILWAY.

906. ***Mr. Amar Nath Dutt:** (a) Will the Government be pleased to state if the guards, road van clerks, running parcel clerks and travelling ticket inspectors employed on the Eastern Bengal Railway are considered as running staff?

(b) If so, will the Government be pleased to state if the travelling ticket inspectors are entitled to the same rate of allowance as is allowed to other running staff?

(c) If not, why not?

ALLOWANCES OF THE TRAFFIC RUNNING STAFF ON RAILWAYS.

907. ***Mr. Amar Nath Dutt:** (a) Will the Government be pleased to state if the allowance for working hours allowed to the loco. running staff and the traffic running staff are the same?

(b) If not, will the Government be pleased to state why it is not possible to bring the traffic running staff on an equal footing with the loco. running staff in the matter of allowance?

Mr. G. G. Sim: I propose to reply to questions Nos. 906 and 907 together.

Government have no information. Such matters are within the competence of the Agent.

WORKING HOURS OF STATION MASTERS AND ASSISTANT STATION MASTERS ON THE EASTERN BENGAL RAILWAY.

908. ***Mr. Amar Nath Dutt:** (a) Will the Government be pleased to state if it is a fact that station masters and assistant station masters employed on the Eastern Bengal Railway have no fixed hours of work at a station?

(b) If so, do Government propose to consider the question of time limit as is laid down for other public servants, namely, Police, etc?

Mr. G. G. Sim: The Honourable Member is referred to the reply given to a somewhat similar question asked by Dr. Lohokare on the 4th June, 1924.

ALLEGED HARSH TREATMENT OF HIS STAFF BY THE HEAD TRAIN EXAMINER, SANTAHAR, EASTERN BENGAL RAILWAY.

909. ***Mr. Amar Nath Dutt:** (a) Will the Government be pleased to state if it is a fact that the Head Train Examiner, Santahar, Eastern Bengal Railway, adopted a policy of punishing the staff by making them work with the sweepers in cleaning and washing carriages when they refuse to do his private work at his bungalow, and that also in cases of refusal by the staff to work with the sweepers, they are marked absent and removed from service?

(b) If not, will the Government be pleased to state if any such complaints were received by the Eastern Bengal Railway authorities?

(c) If so, what step was taken by the Railway authorities?

Mr. G. G. Sim: Government have no information.

PROVISION OF QUARTERS FOR THE RUNNING STAFF OF THE LALMONIRHAT DISTRICT STATIONED AT SANTAHAR, EASTERN BENGAL RAILWAY.

910. ***Mr. Amar Nath Dutt:** (a) Are the Government aware that some of the running staff of the Lalmonirhat District stationed at Santahar are without quarters for want of railway quarters?

(b) If so, will the Government be pleased to state if any house or block is lying vacant there and become unfit for use owing to these houses not being repaired and part of the materials being destroyed?

(c) If not, will the Government be pleased to state if it is a fact that quarter No. T-56 of Santahar Yard, Eastern Bengal Railway, is being used as a cow-shed and servants' quarters?

(d) If so, will the Government be pleased to state if the authorities have accorded sanction to utilise the same as a cow-shed and servants' quarters when the staff remains unprovided with quarters?

CONDITION OF RAILWAY QUARTERS AT SANTAHAR ON THE EASTERN BENGAL RAILWAY.

911. ***Mr. Amar Nath Dutt:** Are the Government aware of the condition of quarters Nos. T-127, T-204, T-181 of the Santahar Yard of the Eastern Bengal Railway? If so, will they please state how they are being utilised?

Mr. G. G. Sim: I propose to answer questions Nos. 910 and 911 together. Government have no information on either of these questions. A copy of the questions and this answer will be sent to the Agent, Eastern Bengal Railway, for any action he may consider necessary.

PROVISION OF MEDICAL AID TO THE STAFF ON THE EASTERN BENGAL RAILWAY.

912. ***Mr. Amar Nath Dutt:** (a) Will the Government be pleased to state if it is a fact that the Eastern Bengal Railway authorities maintain medical staff to render timely medical aid to both the indoor and out-door patients amongst the railway staff irrespective of position?

(b) If so, are the Government aware that unless the staff pay fees varying from Rs. 2 to Rs. 4 the Medical Officer or Sub-Assistant Surgeon does not give timely medical aid and in consequence the staff have to seek outside medical help?

(c) If not, do Government propose to inquire into the matter?

Mr. G. G. Sim: (a) The reply is in the affirmative.

(b) There is, so far as Government are aware, no ground whatever for the statement made.

(c) Does not arise.

SPECIAL PAY OF THE STAFF OF THE EASTERN BENGAL RAILWAY EMPLOYED IN THE DUARS.

913. ***Mr. Amar Nath Dutt:** (a) Will the Government be pleased to state if any special pay as per Fundamental Rule 25 (c) is allowed to the Eastern Bengal Railway staff working in the Duars due to unhealthiness of the locality?

(b) If not, why not?

Mr. G. G. Sim: Eastern Bengal Railway traffic staff employed at Rajabhatkhawa and Damanpur stations in the Alipur Duars are given special pay under Fundamental Rule 9 (25) (c) for unhealthiness of the locality and engineering staff working in the Jalpaiguri Duars are granted allowances as laid down in Appendix 19, Public Works Department Code, Volume III.

PAY OF TEMPORARY ANGLO-INDIAN GUARDS ON THE EASTERN BENGAL RAILWAY.

914. ***Mr. Amar Nath Dutt:** Will the Government be pleased to state whether the Eastern Bengal Railway authorities appoint temporary Anglo-Indian guards on the maximum of "A" class on Rs. 100, and if so, whether it is in conformity with Fundamental Rule 39?

Mr. G. G. Sim: Government have no information as to the rates of pay on which temporary Anglo-Indian guards have been engaged. The pay granted in such cases is fixed with reference to the minimum necessary to secure the services of a person capable of discharging efficiently the duties of the post and there is therefore no infringement of the rule quoted even if the men were engaged on rates higher than the minimum pay of the class.

TRAINING OF INDIANS FOR THE POST OF TRAFFIC INSPECTORS ON THE NORTH WESTERN RAILWAY.

915. ***Mr. Chaman Lall:** With reference to the reply given on 2nd February, 1925, by the Honourable the Commerce Member to the Honourable Sardar Gulab Singh's unstarred question 65, part (b), namely, that on the North Western Railway an attempt has been made to provide special facilities for educated Indians which will fit them for the post of Traffic Inspectors and that for the purpose 12 men have been taken on in the Traffic Manager's office as clerks in the first instance with a view to training and eventual qualification for promotion to higher subordinates' ranks; will Government please state:

- (a) the names of the 12 educated men referred to in the reply,
- (b) the respective dates of appointment of each and their academic qualifications,
- (c) the salaries on which they were recruited,
- (d) their present salaries,
- (e) what training they have been given since their appointment to make them fit for higher subordinates' rank,
- (f) what particular higher subordinate rank they are intended to fill, and
- (g) what is their present grade designation in the department?

Mr. G. G. Sim: The Honourable Member is referred to the reply given to question No. 188 asked by Sardar Gulab Singh on the 7th September, 1925.

PERIOD OF TRAINING FOR PROBATIONARY TRAFFIC INSPECTORS ON THE
NORTH WESTERN RAILWAY.

916. ***Mr. Chaman Lall:** (a) Is it a fact that the period of training given to officers is 2 years on completion of which they are confirmed in their appointment if declared successful in the departmental examinations?

(b) If the reply is in the affirmative will Government please state:

- (i) Why the training being given to these 12 educated men is not yet complete although they are being trained for a much lower post?
- (ii) How many years' training more will have to be given to them to make them Traffic Inspectors as stated by the Honourable the Home Member?

Mr. G. G. Sim: (a) The answer is in the affirmative. The question of extending the period is under consideration.

(b) The men were not taken in as probationers in the higher subordinate ranks, but as clerks in the Traffic Manager's office. The claims of these men for appointment as upper subordinates are no doubt considered by the local authorities who are in the best position to judge whether the men have fitted themselves for the appointment.

GRIEVANCES OF INDIAN GRADUATES EMPLOYED IN THE CLAIMS SECTION
OF THE NORTH WESTERN RAILWAY.

917. ***Mr. Chaman Lall:** With reference to the reply given by the Honourable the Home Member on behalf of the Honourable the Commerce Member on 6th March, 1925, to my questions 1106 and 1107 will Government please state:

- (a) whether a copy of the answers was sent to the Agent, North Western Railway, as promised and on what date?
- (b) whether a reply was received from the Agent, North Western Railway, and when?
- (c) If reply to part (b) is in the affirmative what has the Agent, North Western Railway, to say in reply to parts (a), (b), (c), (d) and (e) of my questions 1106 and 1107?

Mr. G. G. Sim: (a) A copy of the questions and answers was sent to the Agent, North Western Railway, on the 4th April 1925.

(b) The reply is in the negative.

(c) Does not arise.

Mr. Chaman Lall: May I ask the Honourable Member why a reply has not been received from the Agent?

Mr. G. G. Sim: I understand the reply given by the Honourable the Home Member in that particular case was that the matter was one for the Agent to dispose of.

RECRUITMENT OF INDIANS AS "C" CLASS GUARDS ON THE NORTH WESTERN RAILWAY.

918. ***Mr. Chaman Lall:** (a) With reference to the reply given by the Honourable the Home Member on behalf of the Honourable the Commerce Member to my question 1103, asked on 6th March, 1925, will Government please state whether the remarks of the Agent, North Western Railway, have been received.

(b) If the reply to the above is in affirmative will Government please now state whether it is a fact that on the North Western Railway only Europeans and Anglo-Indians are recruited direct as "C" class guards and also give reasons why Indians are debarred from this appointment?

Mr. G. G. Sim: (a) and (b). The result of the inquiry was communicated to the Honourable Member under Railway Board's letter No. 1942-E., dated 1st September, 1925. Another copy of this letter will be sent to the Honourable Member.

NUMBER OF INDIANS IN CERTAIN SPECIFIED APPOINTMENTS ON THE NORTH WESTERN RAILWAY.

919. ***Mr. Chaman Lall:** Will Government please state the number of Indians in the following grades on the North Western Railway?

1. Station Superintendents (600 to 650).
2. Station Masters (400—25—500) Special Class.
3. Station Masters F Class (360—20—400).
4. Station Masters E Class (320—15—350).
5. Assistant Station Masters E Class (250—10—300).
6. Chief Controllers of Trains (400—25—500).
7. Deputy and Assistant Controllers of Trains.

Mr. G. G. Sim: Details will be found in the Railway Board's Classified List of Establishment, the latest copy of which is available in the Library.

ELIMINATION OF RACIAL DISTINCTIONS IN RESPECT OF SHOP MECHANICS EMPLOYED ON THE NORTH WESTERN RAILWAY.

920. ***Mr. Chaman Lall:** (a) Will Government please state whether it is a fact that the Railway Board ordered the Agent, North Western Railway, to revise the scales of pay so as to eliminate racial distinction in respect of shop mechanics?

(b) If the reply is in the affirmative will Government please state whether the Agent, North Western Railway, has complied with the orders of the Railway Board?

Mr. G. G. Sim: The reply to both parts of the question is in the affirmative.

Mr. Chaman Lall: May I ask the Honourable Member what action has been taken in regard to this matter?

Mr. G. G. Sim: I have told the Honourable Member that action has been taken to remove all the racial distinctions referred to in his question.

Mr. Chaman Lall: Do I understand the Honourable Member to say that there is no question of racial distinctions now in regard to these matters?

Mr. G. G. Sim: Yes, Sir.

ELIMINATION OF RACIAL DISTINCTIONS IN RESPECT OF SHOP MECHANICS
EMPLOYED ON THE NORTH WESTERN RAILWAY.

921. ***Mr. Chaman Lall:** (a) Will Government please state whether it is a fact that the Indian literate mechanics in the Carriage and Wagon and Locomotive Departments made an appeal to the Chief Mechanical Engineer, North Western Railway, about four months ago?

(b) If the reply is in the affirmative, will Government please state whether it is a fact that no reply has been given to them and why?

(c) Are Government prepared to eliminate the racial distinction which exists with respect to shop mechanics?

Mr. G. G. Sim: Inquiry is being made and the result will be intimated to the Honourable Member in due course.

EUROPEAN, ANGLO-INDIAN AND INDIAN APPRENTICES IN THE NORTH
WESTERN RAILWAY WORKSHOPS.

922. ***Mr. Chaman Lall:** (a) Is it a fact that European and Anglo-Indian apprentices in the North Western Railway workshops are governed by the Civil Service Regulations and the Fundamental Rules made by the Secretary of State for India in Council in matters regarding their pay, allowances, leave, gratuity, pension, sick-leave, etc., and that literate and illiterate Indian apprentices on that Railway are not governed by them?

(b) Is it a fact that the latter are paid daily so as not to be governed by the Civil Service Regulations?

(c) If the reply to part (b) be in the negative, will Government please give reasons for keeping them daily paid unlike their fellow European and Anglo-Indian mechanics?

Mr. G. G. Sim: The Honourable Member is referred to the reply given to a somewhat similar question No. 669 asked by Mr. S. Sadiq Hasan on the 3rd February, 1926.

STOPPAGE OF THE RECRUITMENT OF COVENANTED MECHANICS BY STATE
RAILWAYS.

923. ***Mr. Chaman Lall:** Is it a fact that a large number of trained Indian apprentices is now available, and if so, do Government propose to ask the Railway Board to order the Agents of the various State Railways to stop recruitment of covenanted mechanics?

Mr. G. G. Sim: The Honourable Member is referred to the reply given to the second part of (b) of question No. 668 asked by Mr. S. Sadiq Hasan on the 3rd February, 1926.

REDUCTION OF THE WORKING HOURS IN THE NORTH WESTERN RAILWAY
WORKSHOPS.

924. ***Mr. Chaman Lall:** (a) Will Government please state whether it is a fact that the working hours in the North Western Railway workshops have been reduced from 8½ to 7½ hours?

(b) Will Government give the reasons for this?

(c) Is it true that this reduction has been made on account of a corresponding reduction of work, and if so, will Government please state whether consequent on this reduction of work any reduction in the strength of Journeymen, Chargemen, Assistant Foremen, Foremen, etc., has been made?

Mr. G. G. Sim: Government are making inquiries and will communicate with the Honourable Member in due course.

EXPENDITURE INCURRED BY THE NORTH WESTERN, EAST INDIAN AND EASTERN BENGAL RAILWAYS ON EUROPEAN AND ANGLO-INDIAN EDUCATION.

925. ***Mr. Chaman Lall:** (a) Will the Government be pleased to lay on the table a statement showing the total expenditure incurred during the last four years by the North Western, East Indian and Eastern Bengal Railways in the way of giving grants for the education of European and Anglo-Indian railway employees' children and place on the table a copy of the rules for giving such grants?

(b) Will Government be pleased to state why this privilege has not been extended to Indians and whether Government propose to undertake this now?

Mr. G. G. Sim: (a) The expenditure incurred from revenue by the North Western, East Indian and Eastern Bengal Railways on European and Anglo-Indian education during the last year was:

| | Rs. |
|------------------------------|----------|
| North Western Railway | 1,81,111 |
| East Indian Railway | 1,51,982 |
| Eastern Bengal | 79,397 |

Similar figures for previous years were not submitted by the Railways.

(b) Assistance is also given towards the education of the children of Indian employees. The whole question of the basis on which assistance should be given by Railways for the education of the children of railway employees—European, Anglo-Indian and Indian—is under the consideration of Government.

Mr. Chaman Lall: May I ask the Honourable Member to state the total figure of expenditure utilised for the education of Indian children?

Mr. G. G. Sim: If the Honourable Member had given notice of that question, I should have been glad to reply to it.

Mr. Chaman Lall: May I ask the Honourable Member if he is aware that the implication is in this question itself?

Mr. G. G. Sim: The implication may be, but the question was not put. I have given the Honourable Member the figures he asked for.

Mr. Chaman Lall: May I ask the Honourable Member to look at part (b) of this question which runs as follows:

“ Will Government be pleased to state why this privilege has not been extended to Indians and whether Government propose to undertake this now? ”

Mr. G. G. Sim: I have told the Honourable Member that expenditure is incurred for this purpose.

Mr. Chaman Lall: My question is why this particular privilege, namely, the expenditure equal in amount to that which has been incurred on European and Anglo-Indian education, has not been extended to Indians?

Mr. G. G. Sim: I could not understand, Sir, that that implication was contained in the question.

Mr. Chaman Lall: Will the Honourable Member give me the figures later on?

Mr. G. G. Sim: Yes.

EXPENDITURE INCURRED BY THE NORTH WESTERN, EAST INDIAN AND
EASTERN BENGAL RAILWAYS ON RAILWAY SCHOOLS.

926. ***Mr. Chaman Lall:** Will Government be pleased to lay on the table a statement showing the number of schools started and controlled by the North Western, East Indian and Eastern Bengal Railways separately for Indians and Anglo-Indians and Europeans and what expenditure is incurred for the upkeep and maintenance of each (European and Anglo-Indian and Indian) school separately?

Mr. G. G. Sim: The information is being collected and will be supplied to the Honourable Member when received.

ARCHÆOLOGICAL SCHOLARSHIPS.

927. ***Mr. Ismail Khan:** 1. Is it a fact that the Government of India have decided to re-institute archæological scholarships?

2. If so:

- (a) what is their number and for what period will they be tenable?
- (b) what are the necessary qualifications for the candidates?
- (c) when and how will applications be invited and by whom will candidates be selected?

Mr. J. W. Bhore: Yes.

(a) Three. The scholarship for Sanskrit and also that for Persian or Arabic will be tenable for one year in the first instance, but may be extended for a further period of two years. That for architecture will be tenable for three years in the first instance and may be extended for a fourth year.

(b) Ordinarily the candidates for Sanskrit, Persian or Arabic scholarships must have passed the B. A. examination of an Indian University and possess a sound knowledge of either Sanskrit, Persian or Arabic. Similarly, for the architectural scholarship the candidate should have taken the B. A. or other equivalent degree in an Indian University. But, in the present case, as the scholarships were revived in order to train men immediately for excavation work in Sind it is important that candidates should possess some practical knowledge of such work whatever their other qualifications may be.

(c) Candidates are usually selected by a committee, but the procedure to be followed this year is under consideration.

Mr. Devaki Prasad Sinha: Are candidates for this scholarship required to file their applications through the Government of their province or through their universities?

Mr. J. W. Bhore: They can send their applications direct to the authority dealing with these applications, namely, the Director General of Archaeology.

UNSTARRED QUESTION AND ANSWER.

NUMBER AND SALARIES OF HIGH COURT AND CHIEF COURT JUDGES.

166. **Lala Lajpat Rai:** Will the Government be pleased to lay a statement on the table of the House, showing the number of High Court and Chief Court Judges, with their salaries, in the beginning of 1880, at the end of 1900, and on the 1st of January, 1926, in the different High Courts and Chief Courts of India?

The Honourable Sir Alexander Muddiman: I lay on the table a statement containing the information asked for.

Statement showing the number and salaries of permanent judges of High Courts and Chief Courts in the beginning of 1880, at the end of 1900 and on the 1st January, 1926

| Name of the Court. | BEGINNING OF 1880. | | | END OF 1900. | | | 1st JANUARY, 1926. | | |
|-------------------------------|--------------------|----------------|------------|----------------|----------------|---------|--------------------|----------------|---------|
| | No. of Judges. | SALARIES. | | No. of Judges. | SALARIES. | | No. of Judges. | SALARIES. | |
| | | Chief Justice. | Judges. | | Chief Justice. | Judges. | | Chief Justice. | Judges. |
| | | Rs. | Rs. A. P. | | Rs. | Rs. | | Rs. | Rs. |
| Calcutta High Court .. . | 11* | 6,000 | 4,100 10 8 | 13 | 6,000 | 4,000 | 15 | 6,000 | 4,000 |
| Madras " " . . . | 4 | 5,000 | 3,750 0 0 | 6 | 5,000 | 4,000 | 12 | 5,000 | 4,000 |
| Bombay " " . . . | 8 | 5,000 | 3,750 0 0 | 7 | 5,000 | 4,000 | 8 | 5,000 | 4,000 |
| Allahabad " " . . . | 5 | 5,000 | 3,750 0 0 | 6 | 5,000 | 4,000 | 7 | 5,000 | 4,000 |
| Patna " " . . . | ... | ... | ... | ... | ... | ... | 7 | 5,000 | 4,000 |
| Punjab Chief Court . . . | 3 | ... | 3,600 0 0 | 6 | 3,750 | 3,500 | ... | ... | ... |
| Lahore High " . . . | ... | ... | ... | ... | ... | ... | 7 | 5,000 | 4,000 |
| Lower Burma Chief Court . . . | ... | ... | ... | 4 | 3,750 | 3,600 | ... | ... | ... |
| Rangoon High Court . . . | ... | ... | ... | ... | ... | ... | 10 | 5,000 | 4,000 |
| Oudh Chief Court . . . | ... | ... | ... | ... | ... | ... | 5 | 4,000 | 3,500 |
| TOTALS . . . | 31 | ... | ... | 42 | ... | ... | 71 | ... | ... |

* On the 1st July, 1880.

THE BENGAL STATE PRISONERS REGULATION (REPEAL)
BILL—*contd.*

Mr. President: The House will now resume the consideration of the following motion moved by Mr. Amar Nath Dutt on the 12th February, 1926:

“That the Bill to repeal the Bengal State Prisoners Regulation, 1818, be taken into consideration.”

Colonel J. D. Crawford (Bengal; European): Sir, I desire to rise in this debate to call the attention of the House once again to a point which I referred to only the other day. I know that if my friend, Mr. Bipin Chandra Pal was here he would tell the House that the psychology of the opposition to this measure was due to the fact of its oppressive nature. I have often wondered why my friends on the opposite Benches have been so ardent in their opposition to a measure which has been of such particular assistance to them. My Honourable friend, Lala Lajpat Rai, certainly owes much of his fame to Regulation III. I was in Mandalay when my Honourable friend was there. I was serving as a subaltern in the army and I used to look upon him as a terrible tiger. I used to see him walking about the roads escorted like a Viceroy by the police. We had a great grouse against my friend as housing accommodation was short and my friend occupied one of the houses which should have gone to us!

But the point I really desire to make is again to call the attention of the House to this very definite menace to India and its inhabitants which comes from Bolshevism. The Regulation does not only deal with internal commotion. It says here in the Preamble:

“Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from *foreign hostility* and from internal commotion”

and that is the point which I want to impress upon the House. There is no doubt that those who have studied this question of the Bolshevik menace must realise that the attack is directed mainly against the British Empire, and that the weapons used are not the ordinary weapons of war to which we are accustomed, but something very much more insidious and dangerous to the peace of our country. The way in which the Bolsheviks would propose to attack India is to seize on any cause of unrest existing in the country. We debated one such cause of unrest only a few days ago and the opposition of my Honourable friends showed me that they were thoroughly alive to the danger which exists. That state of unrest is the point which the Bolsheviks would try to exploit to their utmost. They will endeavour to send agents into this country definitely with instructions to exploit industrial workers and so create considerable chaos in this country and considerable difficulties for you in working out your own salvation. We know that their methods are to exploit industrial strikes and we know that they are already alive to what they call assisting Indian workers. Mr. Joshi and Mr. Chaman Lall have said that they have already had direct support from Moscow. But I trust that Mr. Chaman Lall will not allow our industries to be disturbed by strikes manufactured from outside. I feel that we have a very real menace to our industrial advance, and that at this time, when that attack is being so strongly pressed and in such an insidious manner, surely it would be unwise of this House to take away

from the executive the powers which they possess without giving that executive other powers to deal with that particular menace. That is the point which strikes me most strongly. (*An Honourable Member*: "You have your criminal law.") Criminal law? You know that these people are not people whom you can bring before a court. They are people of whom you have suspicion that they are here solely for the purpose of creating difficulties for us within our own country.

Mr. Devaki Prasad Sinha (Chota Nagpur Division: Non-Muhammadan): How did you get all this information in regard to Bolshevik propaganda?

Colonel J. D. Crawford: May I refer the Honourable Member to the article which I mentioned to the House the other day from the *Journal of the United Service* for January, 1926. It is an article which, even if you do not agree with the opinions stated there, is very well worth your reading and very well worth your consideration. I can assure you that the facts are not unduly exaggerated. (*An Honourable Member*: You think so?)

Mr. Devaki Prasad Sinha: Is that your only authority?

Colonel J. D. Crawford: That is the authority which I have been quoting. I suggest to the House that we know we have very difficult problems here in the way of our political advancement, and I know that Honourable Members are just as anxious as I am to see that there shall be nothing which shall intensify those difficulties. For that reason I earnestly appeal to the House not to repeal at this critical moment the Regulation which is so essential to our own internal peace and welfare. On these grounds I ask those members who are not out purely from an obstructionist motive or who have not had their feelings too heated by abuse to remember for one moment what they are doing and to say that this repeal cannot take place at the moment.

Mr. Devaki Prasad Sinha: Sir, I do not desire to speak at length on the merits of the Bill of my Honourable friend, Mr. Amar Nath Dutt, for the A, B, C of our creed is to wipe out all repressive legislation from the Statute-book. But my Honourable friend, Colonel Crawford has drawn the attention of this House to certain imaginary dangers which he describes as the Bolshevik menace to this country. We must clearly understand that point of view lest we allow such misleading statements to pass unchallenged in this House. I find that the Bolshevik menace, whether it is real or imaginary, is on the brains of some of the Honourable Members of this House, and whenever any question is discussed they bring in this Bolshevik menace with which they seem to be much more familiar than any Indian Member of this House. I do not know how my Honourable friend gets this information. Surely he is not in the Government of India and surely, Sir, if the Bolshevik agents come to India to carry on propaganda they will not find a favourable subject in my Honourable friend, Colonel Crawford! But we know and we have been told by friends like Colonel Crawford that Bolsheviks carry on their propaganda through some European agents. I do not know whether my friend Colonel Crawford is one of their agents, for he seems to speak from inside knowledge. But, Sir, I feel that this is a very unjust method of trying to forge fetters in the way of Indians by talking every now and then of this Bolshevik menace

[Mr. Devaki Prasad Sinha.]

which can on any day create a conflagration in this country and in order to safeguard ourselves against any such eventuality it is necessary that the executive in this country should be armed with unrestricted powers. Well, Sir, if the Bolshevik menace, as my Honourable friend imagines, is threatening the peace of this country, then my submission is that the only chance for the success of Bolshevik propaganda lies in the great discontent of the people of this country. If you want that the progress of Bolshevik propaganda in this country should be nipped in the bud, the best way to do it is to remove the cause of discontent which feeds Bolshevik propaganda. And I submit, by retaining on the Statute-book legislation, if it can at all be called legislation, such as Bengal Regulation III of 1818, you create a very favourable opportunity for the Bolsheviks to come to India and to carry on their propaganda. They will come to the Indian market and say, here is a Government which rest upon such unjust laws, and here is a Government which, instead of protecting the liberties of the people, do everything to bring people into trouble by arming the executive with such unrestrained powers. Therefore if we are to rely upon the statements of my Honourable friend, Colonel Crawford, I think there is a very strong reason in favour of the proposition which my friend Mr. Amar Nath Dutt has placed before this House, that Regulation III of 1818 should be repealed.

Mr. President: Sir Denys Bray.

Dr. Devaki Prasad Sinha: Bolshevik!

Sir Denys Bray (Foreign Secretary): No, Sir, I do not propose to follow either my Honourable friend Colonel Crawford or Mr. Devaki Prasad Sinha into discussions on Bolshevism, for I feel myself that in combating that menace, "real or imaginary," we have from the Foreign point of view other weapons in our armoury. The very few remarks I have to make may seem somewhat incongruous and irrelevant in this debate, but they are not irrelevant to the Bill itself. They will be entirely uncontroversial, for I have nothing to do with the controversies connected with Bengal. I am concerned merely, as Foreign Secretary, with the use of Regulation III of 1818 for the due maintenance of our alliances with foreign powers, and in particular with the maintenance of peace not only on our North West Frontier, but along the whole of our great, our vast land frontier. Now along that enormous stretch of country we have a series of States in various stages of personal rule. Dynasties rise; and with their rise, fall necessarily from time to time certain high personages, possibly of the same dynasty. And equally inevitably, India's geographical position being what it is, such high personages seek asylum and refuge in India. Now in the very nature of things it is almost impossible to deny them that asylum, even though the law of hospitality for which India is so famous would permit it. But equally impossible would it be to allow such fugitives freedom to remain where they will within India's frontiers. To allow them to remain in close proximity to the States from which they came would be a manifest impossibility. Under some form of personal restraint it is essential they should remain, for India's good, for the due maintenance of peace, to say nothing of the due fulfilment of India's ordinary international obligations. It is impossible to allow them to wander where they will

Mr. A. Rangaswami Iyengar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): What about the Fugitive Offenders' Act?

Sir Denys Bray: I am not going to bandy words with my Honourable friend.

Lala Lajpat Rai (Jullundur Division: Non-Muhammadan): May I ask if the restriction as to their residence cannot be made a condition of their asylum in India?

Sir Denys Bray: It is one thing to make a condition; it is another thing to secure its fulfilment, and it is on this very Regulation that we rely for its fulfilment. I have a case before me but a month old, in which certain personages declared that they were unable any longer to maintain the condition under which they were receiving asylum and declared that it was their set purpose to move from India to raise trouble by virtue of their family name in the State from which their father came. Now these persons, Sir, were not foreigners; they were British subjects, born in exile. And that is one of the great difficulties I myself have to face in these matters. Abdul Karim, the Khost pretender, was born in exile a British subject; and there are many cases like his. I say quite frankly that from the foreign point of view—and please note I have said nothing from the political point of view of the Indian States, for this might seem to have a controversial flavour—from the point of view of the Foreign Secretary entrusted with responsibilities connected with the due maintenance of our alliances with foreign States, I say, the repeal of this Regulation is a manifest impossibility.

Mr. Devaki Prasad Sinha: In how many cases have you employed Bengal Regulation III against fugitives?

Sir Denys Bray: In innumerable cases.

Lala Lajpat Rai: May I ask the Foreign Secretary why Government cannot bring in an amendment to that effect?

The Honourable Sir Alexander Muddiman (Home Member): I explained to the Honourable gentleman why I could not bring in an amendment.

Lala Lajpat Rai: That was about a new law.

Mr. T. O. Goswami (Calcutta Suburbs: Non-Muhammadan Urban): Sir, on this occasion I shall content myself with really one observation. This matter has been the subject of frequent debates in this House and there is really very little that can be said which has not already been said against this infamous Bengal Regulation. I suppose, after the Foreign Secretary's speech, the Bolshevik menace has been sufficiently dispelled

Mr. A. Rangaswami Iyengar: Suppressed.

Mr. T. O. Goswami: I shall hark back to the first day of the debate on this subject, when, far away from Delhi, I asked myself, "How did the Assembly relish the Irish stew?" Mr. Donovan, I understand, appealed to this House as an Irishman. Colonel Crawford too has, I believe, on a previous occasion, claimed that he was an Irishman. That is very poor consolation to us; for we can remember at least one other Irish name, probably a familiar name, Michael O'Dwyer. (*An Honourable Member*: "Hear, hear.") He was also not only an Irishman, but the brother of a Sinn Feiner. I mean no personal disrespect, but I do think that the serious business of legislation is incompatible with casual holiday visits of favoured officials, to this Assembly, from the mofussil backwoods. I think we have

[Mr. T. C. Goswami.]

to put up with a lot in connection with this Constitution. One of the things that we have to put up with in this Assembly is the importation of mofussil officials as nominated Members who come to assist in our labours probably for a month or so and then disappear into their air. I submit again that the serious business of legislation is not compatible with the visits, the holiday visits, of these mofussil officials.

Well, as I said, I have only one thing to say and that is this. By all means bring your suspected people to justice. It may be that we have no great faith in the system of justice in this country. It may be that from the moral point of view an offence against the laws of the country is not necessarily to be regarded as a sinful act; but I will allow—as I think most of my friends this side will allow—that the Government has the right to bring to trial all their suspects. Therefore I say to the Government, “You have your ordinary laws; you have your judiciary; play the game!” A Government becomes despicable, becomes an object of contempt, when, in spite of all those weapons in its armoury to which confident reference was made this morning by the Foreign Secretary, it has recourse to the underhand method of imprisoning people without even framing charges against them. Why should we go to Irishmen? I will tell you what decent Englishmen feel about such things. May I quote one great English jurist who says:

“In determining a nation's rank in political civilisation, no test is more decisive than the degree in which justice as defined by the law is actually realised in its judicial administration, both as between one private citizen and another *and as between private citizens and members of the Government.*”

Quite recently the Press brought us news from Oxford, where the President of the Oxford University Labour Club, speaking about the rumour that there was Bolshevik propaganda among the Indian students, stated as follows:

“Neither of my two friends has ever attempted to persuade any Indian students to join the Communist party because of the well known fact that such a step would lead to their victimisation on their return to India, where of course”

—and I would ask the Honourable the Home Member to listen to this—

“ . . . where of course the most elementary rights are unrecognised.”

I am sure Mr. Lee, the President of the Oxford University Labour Club, was voicing what every decent Englishman feels about the prostitution of justice in this country. I do not mind your calling even some of our patriots who have been convicted of a technical offence, “criminals”; because in the history of criminals you find some of the most illustrious men of history. You have Christ, who was convicted and crucified; you have Socrates; you have Galileo. Mahatma Gandhi was convicted as a criminal, and a hired hangman of Bengal had the privilege of calling the great C. R. Das a criminal. So, I do not mind your applying the law against those who seek to subvert your Government, provided you can prove a technical offence; because, I repeat again that it is not necessarily morally wrong to try to subvert a Government which one does not like and cannot otherwise mend; but that it is an offence, and that as such it is punishable; and no true patriot would resent being punished under the ordinary law of the land. That is his martyrdom.

It was said in this House that Bengal of all Provinces was tainted with revolutionary spirit. I feel proud of the fact that in Bengal, national consciousness and love of freedom are so powerful. Why, it was asked I

think by Mr. Donovan, was it necessary only in Bengal to apply drastic measures? I will tell him why. It is because Bengal has to wipe off the traitor's guilt. It has to wipe out the guilt of Omi Chand and Mir Jaffar, who sold their country to foreigners; because Bengal remembers the glorious regime of your Warren Hastings; because Bengal remembers the treatment that was meted out by Government officials to indigo planters; because Bengal remembers the Risley circular which made the singing of *Bande Mataram* an offence. Would any civilised Government dare to defend at the bar of history an action like that? To sing your national song is a crime! That is why Bengal leads the national movement. Then, I may add, Bengal has a literature, she has a great literature, and the motive power of that literature is nationalism. May Bengal for ever lead the nationalist movement!—that is my prayer. I do not care whether Bengal is accused of revolutionary crime. I do not care what is said of Bengali patriots who are either convicted or detained in jail without any charges being framed against them. It shall always be a matter of pride for me to feel that Bengal always leads the onward movement to freedom, which I have not the slightest doubt, shall be realised.

Mr. M. K. Acharya (South Arcot *cum* Chingleput: Non-Muhammadan Rural): Sir, I have not the privilege of calling myself a Bengali like my Honourable friend Mr. Goswami, but I come from a province where some very few years ago this Regulation or a very similar Regulation was enforced against a political worker with whom at that time I happened to be very closely connected. I refer of course to the internment of Mrs. Besant and her two colleagues in 1917 under a similar Regulation. I suppose it was called the Regulation of Madras, not the Regulation of Bengal; but it was exactly, letter for letter, of the same description as the Regulation with which we are now dealing. I can claim therefore to know how the Regulation has been enforced in Madras, and how this particular Regulation is likely to be enforced in other parts of the country.

I shall not take the time of the House too long; I shall content myself with answering what may be called the main plea of those who want to retain this Regulation. That plea has been already answered; I shall answer it again in my own way. It is said that so long as revolutionary conspiracy and revolutionary crime are rampant in any part of the country, so long should the executive possess repressive powers on a large scale; and it has been asked already, and I wish to ask once more as emphatically as I can ask, what is the cause of this revolutionary crime? What is the use of arguing in this vicious circle? High-handed and tyrannical autocracy leads to revolution, revolution leads to repression, and repression again rouses up the blood of every ardent soul and he is regarded as a revolutionary. Where is this going to end, is the question I want to ask. If you want to get rid of revolutionary crime, surely it cannot be by any number of Regulation IIIs. I feel very keenly, Sir, that if I stand here on the floor of this House to-day and want the repeal of this Regulation, it is not at all in the interests of those who are convicted, not in the interests of those who are treated unjustly, not in the interests of those who are oppressed. It is in the interests of the fair name of the country; it is in the interests of the fair name of Government; it is because we who now have an opportunity of being associated with the Legislature of this country will not have any lot or part in such an iniquitous piece of legalised oppression. I do not believe that the patriots who suffer to-day, such of them as are true patriots, care a hang even if they are sent to the gallows. They have got enough patriotism in

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them to withstand all the terrors that the Home Member may have in his hands. It is not therefore in their interests—and I say that again, again and again to this House—that I am pleading for those men; it does not matter to them; if I were in their place I should certainly not care at all what happened to me, if I were a true patriot. And as I am sure that most of them are patriots, they do not at all care for Regulation III. We plead not because they are suffering greatly; they are prepared to suffer; they have voluntarily offered themselves as sacrifices for the freedom of their motherland, and therefore let it not for a moment be suggested that we are pleading for mercy in this House, or said that this Regulation should be repealed because of the great agonies to which our countrymen are put. It is quite the reverse. We are quite as anxious as the Honourable the Home Member, most of us at any rate, every one here, that there should be no revolutionary conspiracy in this country, and therefore it is that we want this to be repealed. As long as this Regulation or similar Regulations or Acts or similar kinds of sections in the criminal law empowering the magistracy to do practically what they like, continue, so long revolutionary crime must as a logical consequence, as surely as day follows night—so long revolutionary conspiracy or crime must flourish in the country. Therefore, we are suggesting the true remedy for getting rid of revolutionary conspiracy. I do not believe we need seriously answer what the Foreign Secretary has advanced; because his case stands on its own merits. If he wants any special powers to deal with alien people about whom he was talking, they can be had; that is to say, I do not believe this House will object to giving him whatever powers he may require, provided they are used solely and entirely for refugees such as those he made reference to. It may be that he now finds Regulation III quite handy; but if Regulation III should be repealed and if there should be cases with respect to aliens who seek refuge or asylum in British India from other places against whom some such regulation or law may be necessary, it is quite open to him to bring up such a measure here, and I do not believe that we on this side of the House will object to it. There are some who say there are already enough provisions in the law to deal with such people. But here we are dealing with what I may call a very very vague and dangerous weapon with which the magistracy is armed; and it is this vague and dangerous weapon which we consider very undesirable to be placed any longer in the hands of the magistracy. Sir, the whole difficulty is this. To all these gentlemen who talk of revolutionary crime I want again and again to put this question: where does legitimate political aspiration end and where does revolutionary conspiracy begin? It is very difficult, to answer this satisfactorily. To the bureaucrat the legitimate aspiration of the most constitutionally-minded man appears revolutionary crime; and that is exactly what was illustrated in the case to which I referred at the very beginning, the case of Mrs. Besant. Mrs. Besant could not by any stretch of imagination be regarded as a revolutionary. Her two colleagues could not by any stretch of imagination be regarded as secret revolutionary conspirators. Whatever they did, they did in broad daylight; and to-day probably there is no one who sings the praises of some of the Honourable Members on the other side more than perhaps Mrs. Besant! How did it happen then that even she was interned, under Regulation II or III or something like that of Madras in 1917? It was not in Bengal? Her case therefore well illustrates the point that I am trying to illustrate, of which

there are many other illustrations, that a large number of very honest political workers are being brought into trouble under this vague Regulation. Now what guarantee is there that those who are now dealt with under Regulation III of 1818 have not been vaguely apprehended, because they could not be otherwise, that is openly, charged and brought to trial?

There have been many cases in the recent history of India to show that this has been the fact. It is all very well for the Honourable the Home Member to say that he has carefully examined the case of every body against whom this measure has been applied. But can he examine each case thoroughly? We shall not be surprised if to-morrow he himself comes up and says: "It is all very well for you, sitting here in the very serene atmosphere of this place or in the cool heights of Simla, to tell me that this should not be done or that should not be done; but put yourself in the place of my District Magistrate, put yourself in the place of my Commissioner of Police. Supposing the officer comes and tells me 'Here I am going to deal with criminals and my life is in danger': How can I tell him 'You must expose yourself to the arms of these secret revolutionaries'? If it is my own life, it does not matter; but it is the lives of other people, of the poor police official and the District Magistrate; and if their lives are threatened by any secret conspirators, I must be the first man to give every power these officers want, and to see that they are properly protected." That will be the Honourable Member's argument. In other words, mostly, these weapons are used by him on what may be called the reports of the man on the spot. The man on the spot *must* be trusted! We are very familiar with this theory: "The man on the spot wants it; he is the best judge of the circumstances, not we!" Not even the officials of the Government of India sitting far away, they are not the best judges, but the men who have to deal with these people actually, the men on the spot. The man on the spot theory is brought in whenever necessary, to justify the contention that the man who feels that his life is in danger and should be protected by this Regulation, must have the fullest protection from this Regulation. Now, Sir, is it the man on the spot theory that carries greater weight with the Honourable the Home Member or is it the great responsibility that he owes to this Legislature and to the whole country, nay to posterity to see that this Regulation is used with the amplest safeguards and scrutiny? What carries greater weight? I fear when it comes to a conflict between the man on the spot theory and the ample safeguards that should be carefully applied, being only human, he will be carried away by the man on the spot theory; and he will readily sanction the use of Regulation III of 1818 to every man and every set of circumstances where it is pictured to him, probably with more imagination than reality, that there is any secret revolutionary conspiracy that needs the application of this Regulation. That is what we feel has happened and will happen very often. Therefore it is desirable that this Regulation should be taken away once for all, that the temptation to use this for every imaginary set of circumstances must be removed from the path of the executive officials. As long as this weapon is there, they will use it and they will use it in 99 cases out of 100 wrongly; it may be used in one case perhaps rightly or even in two cases at the most; but in 98 cases out of 100 the higher executive are sure to be scared by the man on the spot; and the man on the spot is sure to be carried away more by his imagination and by the many reports that he hears, than by the actual truth.

12 Noon. And so long as this is the case, it is very unfortunate, we cannot possibly agree to the continuance of this Regulation. In other

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words, we cannot leave it all to the man on the spot. Sir, I daresay many people who have read Macaulay's Essay on Hampden will remember that there is one short sentence in which he has put the whole case with regard to King Charles I, or the case of the Parliamentarians against the Royalists. Macaulay says, "The King could not be trusted". Similarly, I say that "the man on the spot" cannot be trusted: The magistracy cannot be trusted; and in order to prevent them from a misuse of this Regulation, the only safeguard that is open to us is to repeal it altogether. When the Honourable Member thinks that there must be other powers in place of this Regulation and they should be placed on the Statute-book, it is open to him to come to this House and ask for those powers. If he honestly convinces us that those powers are necessary I believe we shall then be willing to give him some other measure in place of this Regulation. But from our recent experience with regard to the use of this Regulation in Bengal and in other provinces, and from all that we know as to how it has been employed, it is impossible for us to allow this Regulation to continue on the Statute-book. Therefore, Sir, I appeal to this House, not in the interests of the sufferers, because, I repeat, they do not care what happens to them; but I appeal in the interests of the fair name of the Government of India with which now, in some shadowy, unreal sense it may be, we are in some way connected,—for the fair name of Government I say that we should take away this very disgraceful measure, this lawless law as it is called, from the Statute-book, so that we on this side and they may have a fair name.

Raja Raghunandan Prasad Singh (Bihar and Orissa: Landholders): Sir, even admitting all that has been said about Regulation III of 1818—its being a lawless law, unworthy of a place in the Statute-book of a civilised country, I cannot say that its use was never justified by the result. I cannot overlook the fact that law and order were more than once maintained and the country spared many a disaster by its enforcement. Whatever the causes that gave birth to the spirit of revolutionary crime among a certain section of our population, whatever may have been the psychology at the back of the secret assassinations and dacoities, I think, Sir, it cannot be denied with justice that the use of the Regulation on some occasions at least saved the country from an outbreak of anarchy and the peaceful citizens were spared the loss of their lives and property. It has been conceded even by some of those who have strongly urged the repeal of this law that extraordinary times require extraordinary measures.

But, Sir, it does not look well that a law meant for emergencies should remain in force as a permanent feature of the administration. Repression has never and nowhere succeeded in stamping out the revolutionary germ. The utmost it can do is to suppress it for a time but with the certainty of its recrudescence at another time and in another form. This is what has actually happened in this country. Though the use of the Regulation saved the situation once or twice, the disease remained and came to the surface again, necessitating a fresh application of the Regulation. I do not know, Sir, how often the Regulation will have to be put into operation, if a policy of trust is not inaugurated and the legitimate aspirations of the people are not satisfied even to a certain extent.

Another deplorable result of the frequent use of the Regulation is that it has caused and is causing irritation and even indignation in the minds of sober-minded politicians who have never looked beyond the constitution for advancing the interests of the motherland. Signs are not wanting, Sir,

that the confidence of even the sober section of the politicians in the administration has been shaken. I appeal to the Government to take a broad, statesmanlike view of the matter and do something that may prevent the alienation of the sympathy of those who have stood by them at all crises and supported them even at the sacrifice of their own popularity.

Sir, the outlook is no longer gloomy now. As far as I can see, the cloud of non-co-operation that once darkened the atmosphere is fast passing away. The revolutionaries themselves are returning to sanity. They are beginning to find that their secret propaganda has resulted in no good to their country and that the remedy has proved worse than the disease itself. It behoves the Government to accelerate rather than retard the restoration to sense of these fanatics. Let the Government show a gesture of sympathy and friendliness. This will rehabilitate the faith of the people in them. Trust begets trust.

Sir, I again appeal to the Government to see their way to repeal the Regulation in response to the popular demand, if law and order can be safely maintained otherwise, or, at least, provide adequate safeguards against its future abuse at the hands of individual officers and, after a sympathetic reconsideration of the cases of individual détenus, release those who may be found to have been victims of an abuse of the Regulation.

Maulvi Abul Kasem (Bengal: Nominated Non-Official): Sir, I had no desire to intervene in this debate (*Honourable Members*: "Then sit down.") and prolong the discussion, and that for a very simple reason. I think it is very difficult for me to have a definite opinion on this thorny question. It goes without saying that Regulation III of 1818 and similar measures are bad measures, and, as has been said, they are all lawless laws. And what is more to the point is the fact that extraordinary powers vested either in an individual or in a Government are likely to be abused. Now, Sir, so far as Regulation III is concerned, it has been abused in the past, and there is no absolute guarantee that it will not be abused in the future, however careful and however statesmanlike the higher officials may be. Officials are, after all, human, and no human institution can claim infallibility. Again, Sir, there is this danger, that these officials can be misled either by their subordinates or by some unscrupulous persons who somehow or other have gained their confidence. But that is only one side of the picture. There is also the other side, and I shall refer to it presently. If we divest the Government of all these powers and ask them to resort to the ordinary law, I apprehend, Sir, that there will be anarchism and disorder let loose in the country (*An Honourable Member*: "Question"), and that will be a sad day for my country and my countrymen. Sir, I have heard it said repeatedly not only here but elsewhere, why not bring your suspects before the courts and try them? That is of course the ordinary course, and this has been urged by responsible people who in the same breath say that they have no confidence in your courts and that they do not care twopence whether the judgment of the courts are for conviction or for acquittal. Then, Sir, what is the difference between an individual convicting a man and putting him in confinement by his order and trying him in an open court and then convicting him? Sir, I think everybody has a right to say that the only reason for asking for an open trial is that the persons who have supplied the evidence, right or wrong, may be known and may be spotted, and there lies the danger. It is vain, Sir, to hide from ourselves the fact that there is an anarchist movement in the country. It

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may be a few, a microscopic minority, but there it does exist. I am not going to deal with the psychology of the thing. Whatever may be the causes—I believe the causes are to a great extent due to the action of my friends—but whatever may be the causes,—it is a fact that this movement does exist. I put a straight question to my countrymen whether they think that the existence of this movement and this disease is good or bad for the body politic. Personally, Sir, I hold that it is a cancer in the body politic and ought to be dealt with and removed immediately.

Pandit Shamlal Nehru (Meerut Division: Non-Muhammadan Rural): How?

Maulvi Abul Kasem: Whatever may be the measures adopted. If I, Sir, believed that revolution was good, I would have said otherwise. I say that revolution is a crime if it fails and it is a virtue if it succeeds. ("Hear, hear" from the Swarajist Benches.) Sir, if I were assured that revolution in this country was going to free the country from foreign domination, and if I were assured at the same time that by these methods we will be in a position to establish a Government in this country which would be stable, strong and advance the peace and prosperity of the country, I would not hesitate to join the movement whatever the consequences. But, I honestly and sincerely believe that the methods are wrong. The attainment of the end is neither practicable nor probable in that way and therefore I think that revolution is a crime which ought to be detested. Sir, they say that all this talk about threatening and terrorising the witnesses is idle talk, and that the revolutionary movements are due to panic or to repression. I will take you back a few years. Before the first overt activity of the revolutionaries was known, I mean before Mr. B. C. Allen, who was only a little while ago a Member of this House, was shot on the platform of the Goalundo station, neither the people of this country nor the Government had the least inkling of this movement. But, Sir, it was after that that the Government began to start inquiries, and they made certain startling discoveries—you cannot deny that—about the bomb factory in Manicktolla and about the terrorism that this movement exercised. A police official was shot in the precincts of the High Court, another within a few yards of his house from which he had just gone to post a letter, a lawyer was killed within the compound of the Alipore police court and an accomplice was shot within the four walls of the Presidency Jail. That shows the strength, the resources and the activities of these revolutionaries

Pandit Shamlal Nehru: When was that?

Mr. Chaman Lall (West Punjab: Non-Muhammadan): How many years ago?

Maulvi Abul Kasem: That was 16 years back.

Pandit Shamlal Nehru: Only 16 years!

Maulvi Abul Kasem: So that, it is not practicable to bring forward any people to denounce these things. Now, Sir, I have been asked, "How many years back?" I will give you an instance which is of very recent date. My friend Mr. Ahmed, who at the present moment happens to be the District Judge of Burdwan, was appointed a member of the tribunal which sat to dispose of certain conspiracy cases at Alipore. Before his

appointment to this tribunal was announced, he received confidential information from Government that he was selected as one of the judges. He wrote to another gentleman, a Muhammadan Government official, in Calcutta, who is a friend of mine, asking him to put him up in his house for a few days before he could secure accommodation in Calcutta, which is not an easy job. That friend of his wrote to say that he would be only too glad to put him up not only for a few days but during the whole period of his stay, for whatever purpose he may come. Three days after this, the announcement was made in the Press that Mr. Ahmed was one of the men who would compose this tribunal at Alipore and this friend of his wrote back to say that he was living with his family and children and that he dare not accommodate him.

Pandit Shamlal Nehru: Brave man!

Maulvi Abul Kasem: His fears may have been absolutely unfounded but those fears do exist. I am speaking of the situation as it is. He was afraid of accommodating a personal friend even for a few days.

Mr. S. C. Ghose (Bengal: Landholders): When was that? Was it 25 years ago?

Maulvi Abul Kasem: No, no. Only in November last. I have given you the reference. My friend Mr. Ahmed had to seek refuge in the Continental Hotel, which he did not like much, and the three men who presided over the tribunal had to go together—they dared not go alone—and with a guard. I say that it is quite possible that all their apprehensions and fears were groundless, but they do exist. Sir, I am not in love with this Regulation. I want it to be removed. If it is a weapon of terror to the people of India, it is at the same time a matter of disgrace for the administration to have it on their Statute-book. But there must be some sort of weapon to deal with such a state of things. There is no use of attacking it and making speeches here. What I object to is this. If there is this revolutionary movement, if you want it to succeed, if you believe that it can bring good to the country, every man who calls himself a patriot must consider this. It has very often been said that it is in a spirit of nationalism that the misguided youth of Bengal carry on this propaganda. Sir, only a few days ago, it was deliberately said by an Honourable Member of this House that it is the bomb throwers of Bengal to whom the black Members in the front treasury benches owe their position. It is due to the bomb throwers of Bengal that the constitution under which we are here, be it good, bad or indifferent, has been granted to us. I object to speeches like these.

Pandit Shamlal Nehru: Why didn't you then?

Maulvi Abul Kasem: To-day we have been told that this Regulation is used because Bengal wants to wipe out the disgrace of the days of Suraj-ud-Dawla. By this I understand that there is implied justification for the employment of Regulation III, and that there is a revolutionary movement. To my friend, I would say, although I do not command that elegance of language and Oxford diction which he does, that being a disgrace—and a disgrace it certainly is—it cannot be wiped off by committing another and greater blunder. I have felt all along that the misfortune of India has been that it has always treated with foreigners and wanted to upset settled

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government by bringing in invaders. When there was a peaceful Hindu Government they could not tolerate it. They invited the Muhammadans from the border land to come and rule them. When they had a settled Muhammadan Government they invited a small body of traders to come and join hands with them to upset that Government. You have committed the mistake twice. You feel the consequences. Don't do it any further. You ought to learn from the past. Do not exchange the frying-pan for the fire.

Sir, in the course of this debate, the name of my revered leader, Sir Surendra Nath Banerjea was used. His name was used with a certain amount of disapproval by the other side and expression was given to it by my Honourable friend Khan Bahadur Sarfaraz Hussain Khan. He said that the voice of Sir Surendra Nath Banerjea "may have been the voice of Bengal in antediluvian days but it is not so to-day." I use his words. I say, Sir, it is a disgrace to any country to speak of the father of modern nationalism in that language and in that spirit. I know, Sir, and I feel it, that Sir Surendra Nath Banerjea was defeated, and badly defeated, at the polls at the last election. But I submit to the consideration of this House and to every right thinking man that his defeat was a matter of shame and disgrace to the electorate and to you and not to him. Sir, insinuations have been made that Surendra Nath Banerjea or men like him and like Dr. Paranjpye accepted office under Government for the sake of the emoluments that the office carried or for the power and influence that went with it.

Mr. T. C. Goswami: Was that statement ever made here?

Mr. President: The Honourable Member says that veiled insinuations were made and he is entitled to hold his view.

Maulvi Abul Kasem: Sir, I hold and I believe nobody will deny it, that whether they were right or whether they were wrong, these distinguished countrymen of ours accepted office because they thought that by accepting office, they would be

Pandit Shamlal Nehru: On a point of order, Sir. Is that relevant? We are discussing the Bengal Regulation III of 1818 and not Liberal politics.

Mr. President: The Honourable Member is quite relevant.

Maulvi Abul Kasem: They thought that thereby they would be able to serve their country and their countrymen better. And but for Sir Surendra Nath Banerjea as Minister, what would have been the constitution of the Calcutta Corporation? Where would have been the dignified Mayor and the valiant Councillors of that Corporation to-day? But, Sir, human memory is short and Bengal's memory is shorter still.

Mention was made of another friend of mine who is no longer in the land of the living, Nawab Sir Salimullah. It was Mr. Bipin Chandra Pal who said that he was against the partition of Bengal and that it was only a friendly visit of the Viceroy to Dacca that made him change his mind. That, Sir, was a veiled insinuation against the political honesty of my departed friend which I cannot allow to pass unchallenged.

Pandit Shamlal Nehru: Why did you not challenge it that day?

Maulvi Abul Kasem: I did. Sir, I know the history of the partition of Bengal, I was in the thick of it. It is true that Nawab Salimullah . . .

Mr. President: The Honourable Member is not entitled to go into the history of the partition of Bengal.

Maulvi Abul Kasem: I was only offering an explanation. Nawab Salimullah was against the partition, no doubt. Mr. Ghuznavi and I personally went to Dacca and induced him and his followers to go with us in a deputation to the Viceroy. But it was not the Viceroy's visit that changed him. It was the indiscreet statement made by the President of the Town Hall Meeting which was held to protest against the partition, that in Eastern Bengal the Muhammadans would have the predominant influence and in Western Bengal the Biharis and Bengali Hindus would be nowhere. That was the statement that he made. I myself tried to keep it out of the Press but the *Englishman* published it and I could not help it. This was the statement that set up the backs of the Muhammadans of Eastern Bengal and since then it has continued. That is my explanation of the action of Nawab Salimullah.

I have one word more. Assertions have been made which I cannot allow to remain unchallenged. My Honourable friend, Mr. Yakub, said that if the truth about the election of Sir Abdur Rahim were to be told . . .

Mr. President: The Chair reminds the Honourable Member that it is Friday to-day and if he values his prayers more than his speech, he should bring his remarks to a close.

Maulvi Abul Kasem: That if the truth were to be told about the election it would be known that he was elected on the understanding that he would represent the popular view, and I believe by popular view, he meant the view of the benches which he adorns. Sir Abdur Rahim's views were absolutely known and were expressed only a few days before his election. But that is immaterial. I have the authority of Sir Abdur Rahim to say that he entered into no negotiations or any understanding with any body, individual or party, before the election. He offered himself as a candidate to test the mentality of the electorate and as a challenge to his opponents. In the first he received full satisfaction and the second was a triumph. Sir Abdur Rahim is the foremost Muhammadan leader of Bengal at the present day and if his retirement from the Government Benches was a loss to the executive Government it was a great gain to the community and the community has taken full advantage of it. (*An Honourable Member:* "Why did you not seek election?") I did not want to because I was not so sure as Sir Abdur Rahim was. (*An Honourable Member:* "Grapes are sour.") A seat on Bengal Council is no honour to him; his community wanted his services and he placed them at their disposal. (*An Honourable Member:* "Come to the Regulation.") I think that instead of spending our breath and our energies and our time in wrangling over this business the best course would be, if you believe that both the Regulation III of 1818 and the spread of anarchism in this country should be removed simultaneously, for you to sit together and devise means as to how best to do that and not to talk and make the situation worse still. I repeat, Sir, that it is very fine and very comfortable to encourage and advise the poor young misguided men to go and put their lives and property in danger. I know from personal experience

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that many people who are very strong in their sympathy and in their appreciation and approbation of this anarchical movement take particular care that their own sons and their own nephews are miles away from these men. (*An Honourable Member*: "Wise men.") Sir, I say there are two courses open to you. If you believe that these revolutionary, these anarchical movements,—call it anarchical patriotism or revolutionary patriotism if you like—if you believe and honestly believe that they are good for the progress and advancement of the country, make a statement frankly and not in a veiled manner. But if you believe that these are no good as I believe, then it is your business to see that these movements are crushed and crushed they can only be neither by the removal of that Regulation nor by your speeches but by your unqualified condemnation of the movement and by your impressing upon the youth of Bengal that their labours are absolutely in the wrong direction and that these movements are setting back the hands of the clock of progress instead of forwarding it. The condemnation should be strong and unqualified and not a veiled commendation. Sir, my Honourable friend Mr. Donovan remarked the other day that the Muhammadans were out of it. Whatever may be the reasons for that I am not going into them. But only this morning I was shocked and surprised to find in a newspaper that this poison is slowly creeping into that community. (*An Honourable Member*: "You are proud of it.") I am not. I am really very sorry and to the best of my ability I will try to eradicate it. This is a letter received by my Honourable friend from Mr. J. C. Mukherjee, the Chief Executive Officer of the Calcutta Corporation, in which he is told that he has been unfair, unjust, and tyrannical to the Muhammadans and that unless he mends his manners and methods and does them justice, his life would be in danger. The letter is unsigned. Whether it be a danger to the life of Mr. Mukherjee or not, at least it is a great danger to the community to which I belong and it has created a great apprehension in my mind and I hope in the minds of all well-wishers of the Mussalmans of Bengal. When I said that the poison was trying to make its way into the Muhammadan community there was a feeling of joy and approbation expressed from the opposite benches. I cannot understand or realise what was the occasion for it. If their joy is expressed on the ground that revolution is a good thing and its spread is beneficial to the country I do not appreciate it. If it is because they find it is a bad thing and it is good that the Muhammadans have fallen into it I understand and appreciate their feeling. With these words I say that at present we cannot afford to divest the Government of the powers that they possess, however good, bad or indifferent they may be.

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

The Assembly re-assembled after Lunch at Fifteen Minutes Past Two of the Clock, Mr. President in the Chair.

THE HINDU COPARCENER'S LIABILITY BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I beg to present the Report of the Select Committee on the Bill to define the liabilities of a Hindu coparcener.

THE BENGAL STATE PRISONERS' REGULATION (REPEAL) BILL
—contd.

The Revd. Dr. E. M. Macphail (Madras: European): Sir, I think the Government ought to be very grateful to my Honourable friend the Member from Bengal for his speech on this occasion, I refer to my Honourable friend Mr. Goswami. When Mr. Goswami addresses this House I am constantly reminded of a work by another distinguished product of Oxford, I mean the late Mr. Matthew Arnold. He on one occasion wrote a volume of essays known as Culture and Anarchy, and it seems to me that Mr. Goswami in his speech exemplified both. (Laughter.) I understand his position is simply this, that the Government which we have the misfortune to possess is unworthy of any confidence whatever, and being an alien Government may be overthrown by any means that are available. He did not exactly go so far as to say that he considered that all crime would be justifiable, but I think it was pretty plain that he would not have very much to say in deprecation of people who used any means in attempting to overthrow the Government. Now, Sir, the academic question as to the moral guilt of people who commit what would ordinarily be called crimes if they were not done for political purposes may be one which is discussed with interest in students' debating societies. I remember, for example, quite well a debate in a society that I had the honour to belong to, called the Speculative Society of Edinburgh, when the question was discussed, "Are there circumstances in which political assassination is justifiable?" But Members of the House will no doubt remember that in the days of Cromwell a considerable amount of interest was created and a considerable amount of apprehension excited in the mind of Government by the publication of a pamphlet which was known as "Killing is not Murder." And I remember quite well that in Presbyterian Scotland where on one occasion an Archbishop—I had almost said a worthy Archbishop—called Sharp was put to death by the Covenanters, some of the worthy Presbyterians who would not have killed a fly when they spoke of that event two hundred years afterwards never would speak of the "murder" of Archbishop Sharp but of the "killing" of Archbishop Sharp. (Laughter.) What I want to maintain, Sir, is this, that Mr. Goswami plainly states that there is a revolutionary movement and that the revolutionary movement has his full sympathy. He made remarks about Irishmen and about decent Englishmen. I do not know what adjective he would apply to Irishmen, I suppose "wild" Irishmen. (Laughter.) But I am merely a sober Scotchman. (Laughter.) And I confess, Sir, that the exaggerated language that is sometimes used about the Government here has the very opposite effect upon me from what it is intended to have, because it makes me more inclined to support Government than otherwise I might be inclined to do.

Mr. Chaman Lall: We have no fear on that score.

The Revd. Dr. E. M. Macphail: I am not wanting to inspire fear into my Honourable friend Mr. Chaman Lall. I know he does not fear any one. What I wanted to say, Sir, was that I am perfectly certain that this is a power which Government does not exercise with any pleasure. Every one I think has admitted that there are circumstances in which Governments must have this power, and I should like to suggest to my Honourable friends on the other side that in their hatred of things English they perhaps sometimes forget that this whole ideal of what I may call the Habeas Corpus Act is a purely English ideal. We did not enjoy it in Scotland until

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we united with England. (Laughter.) It was not enjoyed in any Continental country until English ideas of justice began to prevail. Indeed up to the end of the 18th century I do not believe there was a single country in Europe where any one had this right which is claimed to be a natural right of all men. Whenever a gentleman uses the words "natural right" I immediately begin to be suspicious. It is one of those terms which is constantly used without any great meaning at the back of it. What it means on this occasion is that people in this country are accustomed to the ordinary exercise of this privilege which has been conferred on them since the British came to India. But, Sir, if there are circumstances in which it is necessary that for a time this exercise should be laid aside it would be a mistake for Government to divest itself of its extraordinary power. I think, Sir, that there are cases in which it is required and the tone of the remarks of Mr. Goswami confirms me in the belief that there are circumstances at the present time that make it necessary that this power should not be given up. At the same time I confess that as a non-official, as one who has suffered sometimes from departmentalism, I consider that it is extremely desirable that the non-official Members of this House and the opposition of this House should carefully scan what is done by Government and should see to it that Government does not use this power to any excessive extent. At the same time when Government comes to us and says to us that in certain cases it believes that it is necessary for it to exercise this somewhat unpleasant power (*An Honourable Member*: "It never comes to us.") it does so in practice. (*An Honourable Member*: "How can you prevent its misuse?") It may not be prevented but my point is that the great advantage of the existence of this House for India is that it will by its criticisms make Government consider very carefully before it takes action of this extraordinary kind. I feel, Sir, I think that the Englishman is not a good bureaucrat. He is not a natural bureaucrat; he has not got that love of exercising power which I think is to a much greater extent inherent in the Indian. I do not think that they love to exercise power simply for the sake of exercising it, and I do not think that they like to exercise powers which are opposed to their own political instincts except in very exceptional circumstances. For that reason, Sir, I am going to vote with the Government on this occasion.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, the more we discuss this question the more we seem to get away from the main issue. I do not wish, Sir, to justify these Regulations or to attack them, except upon one ground and that ground is that the Government stand committed to their repeal. All the objections that are now used by the apologists of Government in favour of the retention of these Regulations were considered and taken into account by the Repressive Laws Committee, and after giving due weight to the representations received and the evidence heard, the Repressive Laws Committee decided to recommend that the amendment of Regulation III of 1818 limiting its scope to objects outlined above must be taken in hand and the Government in their Resolution accepted *en bloc* the recommendations of the Repressive Laws Committee. Now, Sir, I take my stand on the pledge implied in the Resolution of the Government of India accepting the recommendations of the Repressive Laws Committee; and the burden of proof is upon the Government to show why they have not carried out that pledge given to the public and to the Members of this House, not

in a statement of an informal character but in a State document which must have been penned with due deliberation and I presume after consultation with the authorities in England. Well, Sir, this is the position that I wish to take up; and if I were to justify the repeal of the Regulations, I would once more ask this House to hold with me that whatever may be the merits or demerits of the Regulations, all laws, since the constitution of this House, must receive its formal sanction. Sir, these Regulations were enacted by the Executive Government over 100 years ago before there was any vestige of constitutional government in this country. The very term "Regulation" means and implies an Act of the Executive and not an Act of the Legislature. What this House wants therefore is to regularize the Regulations, and I submit, Sir, that the Reform Act of 1919 will have been enacted in vain if these obsolete and antediluvian laws are to remain on the Statute-book without the concurrence and re-enactment of them by the duly constituted Legislature. That is my first constitutional objection to the Regulations. I think, Sir, that it would be in consonance with the underlying policy of the reforms, placing the Legislative Departments under the control of the duly accredited representatives of the people, that all laws that have not received the sanction of the Legislature should be brought before it so that they may receive its formal sanction. I ask, Sir, the students of any constitutional law, especially with reference to Australia and Canada, to say whether that was not done when those Governments were placed under a systematised and regular constitution. That, I submit, Sir, is a plain duty of the Executive Government, and I note that the Executive Government were not remiss in the discharge of their duty. Immediately after the reforms, they constituted what is known as the Repressive Laws Committee placing all the repressive laws before them, and every one of the objections that have been taken now was taken before the Repressive Laws Committee; and, as I have said, the Repressive Laws Committee decided to recommend the repeal of this Regulation along with certain other Regulations.

Then, Sir, the next point that I wish to deal with is that, assuming that we start with a clean slate, that the Repressive Laws Committee never existed, that the Government never gave a promise, that the Government never undertook to carry out the suggestions of the Repressive Laws Committee, I submit, Sir, that this House will be standing upon absolutely sound ground if it asks Government to reply to a few questions. We have been told by successive speakers that while it is perfectly true that these Regulations are old and were intended for a different purpose altogether, their retention on the Statute-book is justified by the recrudescence of the revolutionary movement in Bengal. Now, Sir, at the time when the Repressive Laws Committee sat, the revolutionary movement in Bengal was not a thing of the past; on the other hand they referred to it and they pointed to the existence of a revolutionary movement. And I beg to ask, Sir, is repression a certain cure for revolution? I ask my friends on the other side to answer that question. What country in the world has suppressed revolution by repression? Do we not know the fate of the successive Irish Coercion Acts which Government after Government applied and extended to Ireland? And what was the result? A small party of Irishmen grew in intensity and volume till the whole country was aflame, with the result that the home rule movement gained momentum with each extension of the Coercion Act. Sir, repression feeds revolutions, it does not kill them; and I therefore submit that my learned

[Sir Hari Singh Gour.]

friends on the other side are sadly mistaken if they ever think that the use of repression can in the slightest degree abate or stop the march of evolution.

Then, Sir, it has been said that we want to preserve these Regulations because they are necessary for the purpose of preserving law and order. Now, Sir, when these Regulations were enacted, we had no Penal Code, we had no other sections, such as sections 109, 110 or 108, nor had we a regular police code. We had no conspiracy Chapter added to the Indian Penal Code. In those days, when the criminal law of the land was being evolved, I can well understand the Executive formulating their own views and saying "We shall arrest the persons whom we like"; but now, Sir, when the criminal law of the country has been systematised and placed on the Statute-book, I submit that the Regulations are an anachronism and not in keeping with the Statutes of this country and must therefore go. It has been said that "there is no doubt that there are Statute laws, but how are we going to get witnesses? Witnesses are terrorized, they are intimidated", and a gruesome picture has been presented of persons who had been shot at or shot because they were trying to give evidence in conspiracy cases. I ask, Sir, how many are these cases? And if you have got these cases, you must make special laws for the purpose of dealing with revolutionary crime. On the last occasion when a similar question was before this House, I quoted chapter and verse from the constitutional history of England and from legal books in which I pointed out that there are two conditions necessary, as Professor Sidgwick points out, for the purpose of enacting exceptional laws: first, the case of a sudden national emergency, and secondly, that these laws must be temporary in their nature. Those are the two conditions which justify the enactment of repressive laws. Are those conditions present at the present day? Is the whole of the country in a state of siege? Or is it not the fact that crime is local and localized, and for that, local Ordinances, local laws, have been enacted? And therefore I submit there is no justification whatever for the continuance of an all-India Statute, which is a menace to the liberties of the public and is, therefore, I submit, rightly objected to by the representatives of people in this House. What objections, I submit, can Government raise to-day?

Then, Sir, it has been said by the Honourable Members of the Government that if you were to wipe out these Regulations, what would become of that very large number of foreigners who come to this country for the purpose of preaching revolutionary doctrines? Well, Sir, the reply is simple. If the Government really believe in their arguments they should whole-heartedly support my Bill which exempts foreigners, but is only limited to protect British subjects; and I go further and say that the Members of this House will not be wanting in their sense of responsibility and in their obligations to their own people to assist the Government in framing and formulating such laws as are intended to deal with the nature of mischief—which Honourable Members on the Government Benches represent as necessary—such mischief as is caused by foreigners and by organised propagandists in this country. But the point that the Members of this House are anxious about is that all such laws must flow from the elected representatives of this House and must bear the imprimatur of the reformed constitution. That, I submit, is the gist of the argument.

There is no use telling us, giving us examples, that there are murders committed here and murders committed there. How many more murders, Sir, are not committed throughout the length and breadth of this country? I understand, if the Honourable Mr. Tonkinson will give us the figures, they will run into perhaps a thousand or more. But is that any justification for enacting an all-India repressive law for the purpose of dealing with these crimes? And how many dacoities, organised gang dacoities, are not being committed in place after place in this country, but merely because they happen to be non-political in their character, therefore they are dealt with under the ordinary law. Sir, whatever laws you may enact, whatever safeguards you may provide, you cannot stamp out crime. All that you can do is to reduce it, and I, therefore, submit that on the question of the continuance of these repressive laws which are a source of public and national grievance and have been subjected to criticism by at least two Assemblies of this Legislature I submit the Government must yield and bow to the public opinion repeatedly expressed against these measures. Government say, and we have often been told,—the Honourable the Finance Member has coined a phrase that though they were not responsible they were nevertheless responsive to this Legislature. This is an occasion when I ask the Government to show themselves responsive to the united wishes of this Legislature. I know the power of the Government. We wanted to repeal a series of these repressive laws and we did so with striking majorities, but what was the result? We know what was the result; and even if we carry this Resolution here to-day, I have a serious misgiving that probably it would not wipe the Regulation off the Statute-book. Whatever may be the result, whatever fate this Regulation may meet with elsewhere, that should not, I submit, thwart us from our duty. We, as representatives of the people, have our duty to the people. We are the custodians of the peoples liberties. We speak in the name of the people and ask the Government to reconsider the situation and not to trot out those oft-repeated pleas of "Law and Order, recrudescence of crime, the existence of revolution and the difficulty of obtaining evidence". All those difficulties, Sir, all those objections, Sir, have been wiped out with the ink that drew the Report of the Repressive Laws Committee and I, therefore, submit that there is nothing in any of those objections that have been raised.

One more word and I have done. I was pained to hear a casual remark—let us hope it was only a casual remark—from the Honourable the Home Member when he spoke the other day. He said that some of the Members were speaking under an electioneering exigency. Sir, whatever may be the position of the Members who spoke the other day, I ask the Honourable the Home Member to reflect and look at the dates of the other Resolutions and the Report of the Repressive Laws Committee. Was any election imminent at the time when a responsible committee appointed by Government went into the whole question and drew up its report? I submit it is very easy to criticise but when the Honourable the Home Member

The Honourable Sir Alexander Muddiman: Sir, I also notice that it is easy to criticise.

Mr. T. C. Goswami: The Honourable the Home Member admits that it is easy to criticise.

Sir Hari Singh Gour: I am quite certain that the Honourable the Home Member is a past master in that art and the facility that he has acquired is no doubt well worthy of emulation by Honourable Members on this side of the House. It was said by the Honourable the Home Member in replying to one of the statements made by Mr. Bipin Chandra Pal that the reason why people do not regard an Englishman as a god in Bengal now is that they have forgotten the sound of the Mahratta horseman.

Mr. President: Order, order. Does the Honourable Member wish the House to reach his Bill or not? (Laughter.)

Sir Hari Singh Gour: I am glad, Sir, you have reminded me of that anxiety which is oppressing me and I shall, therefore, conclude.

Mr. Chaman Lall: Sir, at this late hour I have no desire to inflict a long speech on the House; but one or two speeches that have been delivered here to-day prompt me to add my word of condemnation of Regulation III of 1818. One of those speeches was delivered by Maulvi Abul Kasem. He stands up to-day to support the Government in accepting Regulation III as a part of the laws of this land. Sir, nothing that Maulvi Abul Kasem does or says would ever surprise me. But I must confess that to-day I was a bit surprised. Heine once remarked that whenever he read Plutarch's "Lives of Heroes", he was instantly prompted to mount his horse and go to Berlin and become a hero himself. Whether it is the fact that hearing that Sir Abdur Rahim and Sir Surendra Nath Banerjee were also alleged to be the upholders of Regulation III Maulvi Abul Kasem was also prompted to mount his horse and join these heroes, I do not know. (Laughter.) But I have here evidence of the fact that only 12 months ago Maulvi Abul Kasem was of a different opinion, because he voted with us on the question of the repeal of repressive laws. To-day I do not know—I should like to ask the Honourable the Home Member—the reason for this change in his attitude. (Laughter.) Sir, the question is, as Dr. Macphail has put it, that you have a solid body of opinion as represented by Dr. Macphail and his party in favour of such oppressive laws in this country as part of the machinery of the British Government. On the other hand you have a solid body of public opinion which does not believe in the inherent right of Government to keep this sort of legislation on the Statute-book. It is a matter of principle. I do not know if Dr. Macphail was aware when he tried to twit my friend Mr. Goswami, that his own countrymen have died for the cause of righteousness. Does he condemn Wallace and Bruce?

The Reverend Dr. E. M. Macphail: I was going to refer to that but did not do so as I did not want to waste the time of the House.

Mr. Chaman Lall: The Honourable Member did not refer to that because it is my impression and the impression of all of us who sit on this side that every time a Scotsman, Irishman or Englishman comes out to this country he loses all the noble principles with which he was imbued in his own country. Mr. Bipin Chandra Pal talked of the Suez Canal. The Suez Canal has many a sin to its name, and one is that you leave a number of your liberal ideas behind when you cross it. There are other Englishmen, other Scotsmen, other Irishmen who do not believe in these pernicious principles of repression. But it is as a matter of principle that we take our stand upon the point that no human being has any right to rob

another of his liberty without bringing him to trial and placing him before a law court. You have a very famous statement set out in the case of Mulligan which was quoted in the last debate. I am not going to weary the House with that statement. The principle was laid down explicitly that whenever you have turmoil in the country or foreign invasion facing you, then and then only can you institute a system of martial law and that only in the area affected. But unless you have those two conditions in existence there is no right that is given to any executive authority to shut down the law courts and put any man in prison without bringing him to trial. It is a well known principle of English and American law—and I am proud of the fact as all Honourable Members over there ought also to be—that the world has accepted this English principle of liberty. Are you trying to keep India from the acceptance of this civilised principle? Why should India be excluded? What crime has India committed? The Statute says that there are certain conditions which must be laid down before Regulation III can be applied, namely, that the reasons for its application are the due maintenance of the alliances formed by the British Government with foreign powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion. May I ask whether there is any internal commotion in any part of India to-day? You are trying to lock up a few persons whom you have not the courage to bring to trial. Even under the terms of Regulation III you have no authority to put any man in prison because no state of hostility or foreign invasion or turmoil exists. It is not right, it is not proper that you should so give up your principles of liberty and of decent government and take cover under the false plea that there is internal commotion and thereby put a few people in prison because you cannot obtain proper evidence against them. These persons that you are putting into prison are people who are against you, people who have given you trouble. They are not revolutionaries. Nobody has proved that. You have no right to say that they are revolutionaries. My Honourable friend Mr. Donovan quoted Mr. C. R. Das. Did not Mr. C. R. Das say that these young men had given up their revolutionary principles? (*An Honourable Member*: “Yes, three days before.”) I do not care whether it was three days or three minutes before. Mr. C. R. Das said they were no longer revolutionaries. What right had you to send them to prison merely on the pretext that they are revolutionaries? Yet you have the courage, the audacity to put these men into prison without trial. I should be ashamed of action like that. You who are the great descendants of people like Cromwell and Hampden, liberty-loving people, should be ashamed of such action. I give your ancestors all the credit for courage and nobility and love of freedom which I miss in the advocates of repression. You are trying to uphold a lawless law. What else is it but a lawless law? Sir, in England you have the Habeas Corpus Act, which is the right and privilege of every Englishman. My Honourable friend Mr. Donovan was absolutely wrong when he stated that when in England the Habeas Corpus Act was passed the Habeas Corpus Suspension Act was simultaneously enacted. It is not so. The Habeas Corpus Act came nearly one hundred years before the first enactment for its suspension. The Honourable Member does not know this historical fact. And further, every time there is a suspension of the Habeas Corpus Act, the executive Government has got to come to the Legislature and demand its sanction before it can put its suspension into force. We ask you to do

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the same thing; we ask you to take your courage in your hands and get our consent if there is any emergency for you to put into force the suspension of the Habeas Corpus. Sir, that meets Dr. Macphail's point. He said it is because this House and public opinion will be in favour of the Government if these things are explained to them that he welcomes debates of this kind; but no, Sir, Government do not care for public opinion, nor do they want this House to express its opinion in this matter. Government are never willing to accept that opinion as final. They are troubled with these opinions because we bring the matter to their notice time and again. They know that there is no justification for this law; they know that they themselves are against the imposition of Regulation III; they have repeatedly stated it. The Honourable the Home Member said the other day that he does not like using these powers. The Viceroy himself said so; he does not like using these powers. Nevertheless these powers are always used. And what justification is there for the use of these powers? There is no internal commotion in the country; there is no fear of foreign invasion, nor has it been shown that the people you are arresting are revolutionaries or that they have committed crimes. If you can rule this country only by methods like these, it is better for you to abdicate. I submit that by the use of these exceptional powers you are bringing into contempt your own vaunted justice, your own courts, your own system of law and order when you say that law and order must be upheld and then in the very same breath you say you must use Regulation III. You are putting a premium upon crime in this country because no one can have any respect for your law and order when he knows that by a mere stroke of the pen you can ignore the existence of your own law courts. You need not bring any man to trial. What need is there to consider the methods by which you will bring a man to trial? You can by a mere stroke of the pen put any man into prison. How then can you ask us to respect your law courts or your system of jurisprudence? Sir, I submit that no case whatsoever has been made out by the Government in favour of the retention of Regulation III. You say there are murders committed with political motives and it is because of these murders and the difficulty of finding witnesses to come and give evidence, that you must use these powers. Is it not a fact that almost invariably these murders have been committed after you have made use of Regulation III? The Day murder has been cited, but is it not a fact that it was after you had used Regulation III against several men that the attempt was made against the Commissioner of Police of Calcutta and that the unfortunate Mr. Day lost his life? Crime begets crime. When you have been using methods that I can designate only as criminal, other people have come and replied to you with similar action. It is force, Sir; it is nothing else but naked brute force that you employ in this country, and what justification have you for it? Here is what your Cromwell said. He said what liberty and prosperity depend upon are the souls of men and the spirits which are the men. You are trying now to repress the souls of men.

The Reverend Dr. E. M. Macphail: Who was it who said that?

Mr. Chaman Lall: It was Cromwell, Sir, who said that and according to the Honourable Member Cromwell would have been a criminal.

The Rev. Dr. E. M. Macphail: I should have said Cromwell was the Government.

Mr. Chaman Lall: Was he the Government when he unfurled the banner of rebellion? He was not; he was a rebel. Did he not take over the Government after being a rebel? Was he not justifying the theory that Mr. Goswami was laying down on the floor of this House, namely, that attempts to subvert systems of Government based on tyranny are highly moral? My Honourable friend forgets his own history. "The historic epochs that men are most eager to keep in living and inspiring memory are the epochs where the mind of man proved itself unconquerable by force." That is what is happening in India to-day. The mind of man is proving itself unconquerable. You will have time and again men getting up as my friend Mr. Goswami got up and preaching to you liberty, the principles of liberty which you seem to have forgotten. Sir, we shall go on preaching at the risk of our lives, at the risk of our liberties, in this country. I am not afraid of Bolshevik conspiracies in this country as my Honourable friend Colonel Crawford was afraid. Bolshevik conspiracies are not hatched in a day. The Government know it perfectly well. The Government know also that the greatest conspiracy in this country is the Executive of the Government of India. (Loud Laughter.) We are not afraid of that conspiracy over there (pointing to the official front Bench); but, I beg you not to take cover under these false pleas that there are Bolshevik conspiracies in this country and that therefore you want to utilise these exceptional powers. What happens in Great Britain? In Great Britain the Labour movement is permeated with Bolshevism. Does the Government ask for exceptional powers or for the suspension of the Habeas Corpus Act? I submit there is no cry even in the most reactionary conservative circles for the use of exceptional powers in order to put down this propaganda there. It is a false cry, Sir. It is a cry used by the Government in order to put down legitimate political propaganda in this country. It has been stated over and over again that it is so and the Government have not been able to disprove it. I ask the Government to take their courage in both hands, to utilise civilised methods, to come forward and take any action they want to take against persons whom they consider to be dangerous people or criminals or likely to commit crime; but let them do so under cover of the law; let them not go behind the law and make use of exceptional powers. Sir, the appeal I make to them is to uphold the principles of liberty and I hope the Honourable Member who represents the Government of India in this matter will not forget the great principles for which he himself stands as the inheritor of a great and noble tradition.

Khan Bahadur W. M. Hussanally (Sind: Muhammadan Rural): Sir, I rise in a shameless manner to oppose the Bill before the House. Unfortunately my Honourable friend Mr. Chaman Lall always imports unnecessary warmth into his speeches and thus spoils the effect.

Mr. Chaman Lall: It is good for old people!

Khan Bahadur W. M. Hussanally: On a former occasion when a measure of his kind was before the House I remained neutral. I did not vote one way or the other because I did not find the arguments convincing on one side or the other

Mr. Jannadas M. Mehta (Bombay Northern Division: Non-Muhammadan Rural): You are improving!

Khan Bahadur W. M. Hussanally: (Yes, my friend Mr. Chaman Lall has improved me.) But to-day my friend Mr. Chaman Lall has thrown me into the opposite scale. I had been wavering all day whether I should vote at all or not, and I honestly say that it is Mr. Chaman Lall's speech that has made up my mind to vote on this side.

Sir, we are told this is a repressive law, and no doubt it is, but so are some other laws. We have got a Bengal Regulation, we have got a Bombay Regulation and a Madras Regulation; but I belong to the sleepy hollow of Sind where these Regulations are never heard of nor are we afraid of these Regulations at all.

Nawab Sir Sahibzada Abdul Qaiyum (North-West Frontier Province: Nominated Non-Official): What about Lala Lajpat Rai, justifying the retention of repressive laws in the North-West Frontier Province?

Khan Bahadur W. M. Hussanally: Well, that is a matter for you and Lala Lajpat Rai to settle between yourselves. I have nothing to do with either you or Lala Lajpat Rai. But if this is a repressive law, why should my friends on that side be afraid of it? They should not want repressive laws to be taken off. They want Swaraj; they should work on for it; no human being likes to be ruled by any alien Government; surely as an Indian I would not like to be ruled by an alien myself. But why should repressive laws frighten me or my friends on the other side? (*An Honourable Member:* "They do not frighten us.") If they are not frightened why should they move that this law be taken off the Statute-book? (*An Honourable Member:* "We think it is immoral.") Mr. Amar Nath Dutt also made an interruption which was inaudible at the Reporters' table.) You may go on interrupting me as much as you like; you will not win my vote; you have lost me (Laughter), and you must thank Mr. Chaman Lall for it. No amount of interruption now will gain you my vote, to-day at any rate. Sir, Swaraj can be had according to me in one of four different ways: by fighting, by begging, by spinning or by suffering. (*Sir Hari Singh Gour:* "By spinning?") Wait please; do not be impatient. Fighting is out of the question; I think that is admitted by my friends on the other side. (*An Honourable Member:* "Which side?") The Swarajists' side; we cannot fight.

Pandit Shamlal Nehru: Come on; we will have a try outside.

Khan Bahadur W. M. Hussanally: The fight is only here, not elsewhere. Sir, begging has been given up; we do not want to beg for Swaraj as we have failed to get it in that way. Spinning is the cult of Mahatma Gandhi; that has been discarded; that cult has gone. (*Cries of "No."*) What remains? Suffering. If suffering will bring us Swaraj, why do my friends want the Regulations to be taken off and to be repealed?

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): I want the President's ruling whether these observations on Swaraj and suffering and spinning are germane to the subject.

Mr. President: They are quite germane to the subject.

Khan Bahadur W. M. Hussanally: Well, Sir, if then we are to get Swaraj by suffering, these gentlemen ought to suffer cheerfully; the more those who are for Swaraj suffer under these repressive laws the quicker Swaraj will come. (*An Honourable Member:* "What about yourself?") As

soon as Swaraj comes I will be the first to go in for it. Why should my Honourable friends ask that this law or that law should be repealed? Even supposing the motion is carried in this House to-day, is there any chance of this Regulation being repealed? Absolutely none. My Honourable friend Mr. Amar Nath Dutt expects that the new Upper House will pass the repealing Act if it is passed here. I doubt it very seriously. (*An Honourable Member*: "Whose fault?") Therefore, it is no use wasting our breath and our arguments; we have wasted two days over this business, and it is no use wasting any more time. Sir, the action of my Honourable friends on my right comes to this—"I am prepared to lay my heart, but you must not use a rifle." That is what it comes to, and that, I say, will not win Swaraj one day quicker.

My friend Sir Hari Singh Gour and some other speakers said that the Government were committed to repealing these repressive laws. Well, if they have failed in their duty, why not bring in an amending Bill?

Sir Hari Singh Gour: That is what I have done.

Khan Bahadur W. M. Hussanally: There is a Bill here amongst the business for to-day which will bring to us habeas corpus. If that Bill is passed we shall have won our object; and if any person is locked up under Regulation III he can be called up before a Judge under that particular Act. (*An Honourable Member*: "Are you going to vote for it?") That has to be seen (Laughter). You need not ask my vote before it comes up. I will think of it when the time comes. I may vote with you, but I cannot commit myself now one way or the other. Well, Sir, if that Bill is passed, our object will be served, and then whether this Regulation remains on the Statute-book or not, it will not matter a bit. Therefore, Sir, we should not insist upon this Regulation being repealed and waste any more of our time.

Sir, another reason why I have made up my mind to vote against this Bill is, because the name of our revered leader in Bengal, I mean Sir Abdur Rahim, has been dragged into this controversy. (*An Honourable Member*: "Who dragged it in?") It is a very regrettable circumstance, and that is why I have decided to vote against this motion. With these few words, I oppose this motion.

Colonel Sir Henry Stanyon (United Provinces: European): Sir, I will take up very few minutes of the time of the House. I rise only to correct what seems to me to be a serious mistake into which the enthusiasm of my Honourable friend Sir Hari Singh Gour carried him. He made a statement that Government by accepting the Report of the Repressive Laws Committee are committed to the repeal of Regulation III of 1818

Sir Hari Singh Gour: Sir, on a point of personal explanation. What I stated was a quotation from that very book which I have lent to my friend, namely, that they meant it in accordance with the terms of the recommendation of the Repressive Laws Committee.

Mr. President: Did not the Honourable Member know when he lent his book that it would be used against him?

Colonel Sir Henry Stanyon: Sir, if the correct statement of the case is that the Government are committed by accepting this Report, for the loan of which I thank my Honourable friend Sir Hari Singh Gour, I should

[Colonel Sir Henry Stanyon.]

without hesitation vote in favour of the Bill. Very few minutes will suffice to show the error into which, I think, my friend fell. The Committee write in paragraph 18:

“Our recommendation in regard to Regulation III of 1818 and the analogous Regulations in the Bombay and Madras Presidencies is subject, however, to the following reservations. It has been pointed out to us that for the protection of the frontiers of India and the fulfilment of the responsibilities of the Government of India in relation to Indian States, there must be some enactment to arm the executive with powers to restrict the movements and activities of certain persons who, though not coming within the scope of any criminal law, have to be put under some measure of restraint.”

Here they give an illustration which I pass over and then add:

“We are in fact satisfied of the continued necessity for providing for the original object of this Regulation in so far as it was expressly declared to be the due maintenance of the alliances formed by the British Government with foreign powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection and the security of the British Dominions from foreign hostility and only in so far as the inflammable frontier is concerned from internal commotion. We, therefore, recommend the amendment of Regulation III of 1818 limiting its application to the objects outlined above.”

The report concludes with these words:

“Animated by these ideas we therefore recommend the repeal of all the Statutes included in the terms of reference to this Committee with a reservation as to Bengal Regulation III of 1818 and the corresponding Regulations of the Madras and the Bombay Presidencies. But we advise that the repeal of the Prevention of Seditious Meetings Act, 1911, and Part II of the Indian Criminal Law Amendment Act, 1908, should be deferred for the present. Their retention is necessary in view of recent occurrences and possible developments which we cannot but regard with the gravest apprehension.”

Now, Sir, the motion before the House is that Regulation III of 1818 should be entirely repealed. I venture to submit that the Repressive Laws Committee did not recommend, nor did the Government accept, any recommendation for the total repeal of that Regulation.

I have only one word to say with regard to the speech of my Honourable friend Mr. Abul Kasem. The substance of his speech was this. We have to choose between two evils, revolution or the possibility of revolution on the one side, and Regulation III on the other.

Mr. M. A. Jinnah (Bombay City: Muhammadan Urban): We have got both.

Colonel Sir Henry Stanyon: Sir Hari Singh Gour told us that repressive enactments have brought about the freedom of Ireland. I do not agree with that view. But if it is a fact, then repressive enactments ought to be welcomed as likely to bring about freedom to India. But we have to look at the matter seriously, without heat and without undue display of emotion. We have on the one side assurances given by responsible officers of Government that there is evidence, carefully sifted in every case but which cannot be made public, which justifies such action as has been taken. On the other hand, we have the assurances of certain Members of this House that this evidence, which they have not heard and which they cannot hear, is all false, is quite unfounded, and is wholly concocted for the purpose of repressing political aspirations. That is a view which I feel myself quite honestly unable to believe and to accept. As this is a motion

to repeal the entire Regulation, and Government are not committed to any repeal of that kind, I propose to vote against the Bill. (*An Honourable Member*: "We knew that.")

Mr. E. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): Sir, I move that the question be now put.

The motion was adopted.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, what pained me most was to find a countryman of McSwiney and De Valera supporting the retention of the Regulation on the Statute-book. I was no less pained when he placed the reputation of the Governor General of India and the Governor of Bengal on a higher level than that of Lord Morley. Again, Sir, the strategy that has been adopted for making out a case for retention of Regulation III on the Statute-book is not calculated to inspire that trust in the good-will of the Government and the integrity of their intentions which must pave the way for co-operation. From Sir Abdur Rahim's Aligarh outburst and his official connection with Bengal, when the Regulation was largely used, and the accident that the obnoxious Regulation has not been hitherto used against Muslims, Mr. Donovan drew the startling deduction that Bengal Muslims were not opposed to the Regulation. This assumption, which was as unwarranted as it was likely to stir up communal jealousies and recriminations, if unchallenged, has been promptly questioned and disowned by the Muslim Members of this House, not only from Bengal but from other provinces as well.

After Mr. Donovan's speech meetings of the Muhammadan community have been held in Bengal supporting the repeal of the Regulation, not excluding the constituency of Sir Abdur Rahim himself, presided over by M. L. C.'s. Sir, in his enthusiasm Mr. Donovan did not hesitate to bring in a comparison of the Regulation with the Ten Commandments, which will be resented by all true Christians, as has been done by the Honourable the Home Member. The man who treats his own Bible in this fashion cannot be expected to have a better appreciation of the Code of Manu. The Honourable Member who represents the Government of Bengal in this House has taken a large sweep from the Manab Dharmasastra and the Bible to the newspaper literature of Bengal. In his opinion, these newspapers create an unhealthy political atmosphere for the young men of Bengal. But has he ever cared to consider the root cause of the same before apotheosising the Regulation? Sir, I did not wish to rake up the memories of bureaucratic wrath in my unhappy province, because it is associated with tragic memories of desolated homes and enforced bereavements, and we were assured by the Government in the Bengal Legislative Council, that the present recrudescence of repression had nothing to do with old stories and further because the gracious message of His Majesty the King Emperor in December 1919 gave an assurance that all causes of bitterness should be obliterated. These assurances have some meaning for us, but for the members of the Heaven-born service "Law and order" have a brand of their own, and this House has witnessed a confession from one Honourable Member at least that epochs may come and epochs may go but Regulation III of 1918 goes on for ever. My Honourable friend Mr. Donovan has referred to histories of a by-gone time and draws a

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continuous link of causation for the edification of present day legislators. I for one am thankful that this House should record the respect which the administrators show for solemn assurances of His Majesty. I am also thankful that the present debate has brought to light one more point of view of political philosophy that every government in this country will require a Regulation III so that our countrymen may reasonably infer that this Regulation is never to be repealed. I am also thankful that the free use of the words "contamination", "pitch", "conspiracies", "crimes" shows a mentality in the powers that be, which proclaim them unfit for managing a menagerie, far more managing a civilised government.

Since the days when for internal commotion Regulation III of 1818 was enacted much water has passed down the Jumna, the Penal Code has been framed, sections 120A, 120B have been added, crimes and offences have been defined, "aiding and abetting" have been judicially considered. Still the persons who in all conscience ought to be more careful about their tongue have used language which betrays contempt for the established order of things. The mentality which framed the Ordinance for Bengal by boiling almost all the sections of the Indian Penal Code in one cauldron is fully in evidence here, and I am thankful for it.

Sir, I am accused of a presumption that I have the voice of Bengal behind me by the Honourable Member who recollects the voice of Bengal spoken by Sir Surendra Nath Banerjea. He juxtaposes the following sentence, obviously with a pregnant suggestion:

"Sir Surendra Nath Bannerji was a member of the Government of Bengal that felt the need of Regulation III for Bengal"

just after expressing his greatest respect for his voice. It is no use referring to what Sir Surendra Nath writes in his "Nation in Making" regarding this episode. On the 24th of January, 1924, Mr. W. L. Travers, M.L.C., reminded the members of the Bengal Legislative Council that there were in the Bengal Government at that moment five Bengalis who must approve of the policy that is adopted, and presumably they confirmed the policy of the Government. It is therefore reasonable on the part of Englishmen to infer that Sir Surendra Nath confirmed the policy of Regulation III. But, Sir, it is one thing to speak of inferential confirmation and to speak of a voice which is resounding throughout the country, and in the same breath to associate that voice with the need of Regulation III is another story. Thank God, notwithstanding the wish of the Honourable Member the mortal remains of the late Tribune of Bengal is not in a grave, otherwise this compliment from his latest admirer would have made him turn therein. In 1910 Surendra Nath was an aggressive extremist promoting mischief, according to the opinion of that political *guru* of Anglo-Indian administrators, Sir Valentine Chirol, and to-day after his death, they entertain the greatest respect for him to suit the purposes of history. It betrays a perversity of mind which it is impossible to meet with arguments.

In my opening remarks I tried my best to put my case succinctly one after another. None of them has been met. But a meretricious display of the intellectual Kaleidoscope has been made to cloud the clear cut issue, to throw dust in the eyes of those who have not been eye witnesses of the tragedies of Bengal. A question has been asked, "Why it is that it is in Bengal that these conspiracies exist?" Apart from the childlike simplicity which ignores the fallacy called in an elementary book of logic *petitio*

principii the next two turns of the Kaleidoscope supplied the reply to the question. The reply is clearly one which is admitted, because Bengal is inhabited by "a people gifted by nature above others in talent" and this talent sees through the sham and pretensions of the voice of the administrators as distinguished from their hand. The "generous, open-hearted free youth" of Bengal can not tolerate the lip professions of sympathy and co-operation, and realise the want of heart and soul in what they see and feel. I confess I never came across in my life any such glaring instances of flippant cynicism than that with which the Honourable Member representing the Government of Bengal narrated one after another his experiences. Mr. Donovan says:

"How are the Government of Bengal to believe in their sudden conversion, in their pretended penitence? How are the police to know that Mr. Das had asked them for their word of honour and had trusted them?"

Sir, there is a Bengali proverb that a fisherwoman cannot sleep without a fish basket near her nose. An Anglo-Indian administrator cannot trust even Mr. C. R. Das, unless the police knows it. And therefore, when the man is kept away from all accessible means of defending himself, all sorts of insinuations and innuendoes are made against him in the safe shelter of this House. I shall not again refer to the specious plea of intimidation of witnesses. Some people are believers in the art of repetition as one of the means of transplanting ideas of their own creation. I do not know which of the alternatives I should admire more, cynicism or perversity, with regard to the mangled remains of the body of the poor young man who, as Pandit Shamlal Nehru has pithily put it, escaped the Judges only to get murdered by his own people. The other incidents referred to are fit cases for bringing to court, but there is the battery of the Calcutta Bar to frighten the 30 gold mohur and 60 gold mohur Government advocates. The biggest *palwan* of a Bengali Zemindar was being reprimanded for incapacity to fight the dacoits. The *palwan* quietly replied: "Huzoor, one of my hands was occupied in holding the sword and the other in holding the shield. How could I fight?" I do not like to outwit anybody in any feat of intellectual jugglery or oratorical pyrotechnic. Nor do I like to wean away any stilted nobility, or a buttressed rank, to have sympathy for our poor Bengali sufferers. Every man is certainly entitled to be wise in his generation, and the glorious examples of Omichand and Mirajafar of blessed memory are there to serve as beacon-lights.

Sir, you can have no idea of the wave of grief that overtook the people of Bengal when Victoria, the Good, passed away. But soon after that Lord Curzon's abuse of the Bengali nation on the convocation platform, his design to split up Bengal in order to break up the growing solidarity of the Bengali-speaking race, the passing of the Official Secrets Act, and the Universities Act, came in rapid succession, which created an atmosphere of dislike and distrust of your rule. The warning of Dr. Rash Bihari Ghose in the Imperial Legislative Council at the time of the passing of the Seditious Meetings Act was treated with contempt. The people's patience came to a limit, and is it at all strange that a certain section of them may grow more impatient than others? The sections of the Indian Penal Code dealing with offences against the State were found to be sufficient to deal with the actual offences against the State at that time. But the passion for retribution was roused and the Statute-book was crowded with new enactments, one after another, till there is not a single line of social or political

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activity which has not come under the summary powers of the Executive, and the result has been that passion and prejudice reigned in place of reason and principles. Private animosities were taken advantage of in the name of law and order. In Bengal, besides the imprisonments under various sections of the Indian Penal Code for nearly 8 years, against which nobody complained, 1,700 young men were deprived of their liberty for unknown, unknowable and undefinable offences. Mr. Montagu saw through the futility of this, and perceived that the very fact that so many young men of respectable families had to be imprisoned under star-chamber methods, would be sufficient condemnation of the system of government, and withheld the mailed fist for a time. But the intoxication of irresponsible power enjoyed had an exhilarating effect on some, and a nefarious conspiracy was set on foot by that arch-conspirator in England, whom Lalaji has thought fit not to name, and who, like the baby in the Pear's Soap picture, won't be satisfied, till he can see the Rowlatt Act conditions revived. His views were wired across continents by Reuter every now and then, and he is lying on his oars now that the Regulation and Ordinance are there. And why was this wanted? Sir Valentine Chirol has given us the clue: "Don't let us throw away our surgical instruments." And it is well known that surgical instruments can remain in order only by use. We, Sir, have only one duty to perform as representatives of the people in this House. In the court of Hastinapur, Vidur had only one duty to perform, and that was to point out the path of righteousness on each occasion. He never cared whether his counsel was heeded or not. Our part here is that of Vidur. Sir, you should not think that your duty is over by uttering complacently the platitude "that the readjustment of economic troubles to modern conditions is a long process, it is a matter which must take time." And you are impervious to the sense of shame of providing Rs. 50,000 for the water supply of the whole of Bengal. The additional mockery of the whole situation is this, whenever one of these crying needs is brought prominently to notice a Committee or a Commission is appointed, in the hope that the people, who would get fees, will support your incompetency and inefficiency. While this is the prevalent disease of the body politic, the re-action in self-help amongst the people is looked upon with suspicion as a movement to organise the resources of the country to overthrow the British power. It is a diseased mentality, born of suspicion and distrust, and the application of Regulation III of 1818 only accentuates the morbidity of the situation. The discontent that was planted in Bengal is now casting its shadow over the continent of India. Admit it or not, within one decade, you have proved yourselves wholly incompetent to govern this ancient land of ours with its ancient civilisation. Admit it or not, the mental and moral forces of India which are not and cannot be in the gift of any human agency, are finding it more and more impossible to associate with you during the last decade. Admit it or not, you have by your actions treated the broadbase of peoples' contentment, so emphasised by the gracious message of Queen Victoria, as a mere effeminate sentiment. Since the German war you have been conquered by the philosophy of Nietzsche and each one of you think yourself a superman, feeling only unmitigated contempt for any of our views and viewing with cynical indifference our most tragic grievances. The intolerance of opposition is evidenced by your rattling of the sword in season and out of season. But our duty is to remind you to retrace your steps, repeal this Regulation and all other legislation of the kind, the weapons of the ignorant

and the coward. I need hardly remind you that little minds and great Empires go ill together and we, the ancient inhabitants of this ancient land of ours, believe in the unexpectedness of happenings. Icebergs may float about to sink the most invincible Titanic. Let me conclude by repeating the lines of our great poet, Rabindra Nath :

“ *Sasaney jatai ghero
Achhey bal durbalero,
Haona jatai borho
Achhen Bhagaban;
Amader sakti meray
Torao banchbi naray
Bojha tore varee holay
Doob-bey tarikhan.* ”

“ Bind them howsoever,
The weak too get the power,
Be you, how so great,
God is greater yet.

If our strength you do deprive,
Our weakness will not let you thrive,
And when your boat is full of misdeed
It is sure to sink, go down indeed ”

The Honourable Sir Alexander Muddiman: Sir, I have spoken on this subject on several occasions. I think it is even possible I may have to speak again and on the present occasion I do not intend to detain the House very long. This matter has been debated for the best part of two days. The debate was approaching a conclusion on the last occasion it was before the House, but the enthusiasm of an eloquent Member from Bengal returning fresh from contact with his native soil has given it fresh life. He has made an appeal that this Regulation which deprives men of trial should be repealed or reconsidered and that we should provide for regular trial. Sir, that appeal would perhaps have come with more force from some other Member of this House, for on a recent occasion when the question arose as to trial of persons, my Honourable friend was good enough to observe that he distrusted police and courts alike. Sir, what is my predicament in regard to the Honourable gentleman? As far as I can see whether a man is tried or not, it is the same. Magistrates and High Courts he distrusts and therefore in his point of view there is not really much

Mr. T. C. Goswami: I did not speak of High Courts, but mainly of Magistrate-Judges.

The Honourable Sir Alexander Muddiman: In my recollection the Honourable Member did say High Court. He did not mention the Judicial Committee but I have no doubt he thinks the same about that body. But, Sir, there are other Members of this House who, at any rate, have some confidence in our magistrates, who have some confidence in our courts. I can well understand

Mr. M. K. Acharya: And in public opinion.

The Honourable Sir Alexander Muddiman: And in public opinion. It may be so. I am glad to have it from the Honourable Member. There are other Members in this House who have some confidence in our courts, in our magistracy and in our officers. I can well understand many of them would agree that because of this very reason there are grounds for the repeal of a Regulation of this kind which confers powers which I have

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always freely admitted in this House are powers that are very difficult to defend. I have never made any concealment about it and I make none now. The point I have put forward against my Honourable friend from Bengal was to a large extent a debating point but it is also of substance and a reasonable point, because those who seek to overthrow all existing institutions cannot be surprised that those who defend them retain very special powers for doing so. Now, Sir, it was also said that it was the proud privilege of Bengal that the occasion for these special laws arose in that province. Sir, I come from Bengal myself. I have spent years in Bengal. I shall go back to Bengal next Christmas, I hope. (Laughter.) But I never heard any one else say that they were proud that Bengal was distinguished by these occurrences. I have heard however from people of all shades of opinion that they deprecate these occurrences because the fair name of Bengal is smirched by them. (Applause.) A historical reason was given to explain why Bengal revelled in these occurrences. The story of Umichand and the rule of Warren Hastings were suggested. Sir, I have heard—I do not assert it—that there is another Regulation of that period which may in some measure account for the occurrences in Bengal. It has been suggested—I do not say whether rightly or wrongly—that there is a Regulation XIX of 1793—the permanent settlement—which gave to the landlord in Bengal great privileges, and which has something to do with the economic trouble of Bengal. (Official Cheers.) And, Sir, that is a Regulation which, at any rate, to my Honourable friend must be of a very pleasing nature. (*Honourable Members*: “Repeal it” and “No, no.”) Sir, it has been stated by a very learned Indian revenue authority who by his criticisms procured a reasoned examination of the revenue policy of the Government of India that it was the basis of the distinguished loyalty of Bengal zamindars. Sir, I yield to none in bearing testimony to the distinguished loyalty of the Bengal zamindars.

Mr. T. C. Goswami: You will soon have to change your opinion.

The Honourable Sir Alexander Muddiman: I take leave to differ. I now proceed to a suggestion that I heard made from one of the Benches opposite. It was suggested when my Honourable friend the Foreign Secretary was speaking that the Fugitive Offenders' Act would meet the case that he was putting forward.

Mr. A. Rangaswami Iyengar: May I explain, Sir, that it was not the Fugitive Offenders' Act, but it was merely the Foreign Jurisdiction Act.

The Honourable Sir Alexander Muddiman: Then I will leave the matter at once. I quite accept my Honourable friend's statement. It was a slip of his. We are all liable to make mistakes. I make them frequently.

Now, Sir, when Colonel Crawford was addressing the House it was suggested that he could know very little about those foreign influences which are a source of great anxiety to all who have the good of this country at heart. That doubt, Sir, cannot, at any rate, be entertained against me. I have a considerable amount of information which perhaps is not open either to Colonel Crawford or any other Members of this House. I may say that the evil, the danger is undoubted and considerable.

Now, my Honourable friend was good enough to read to us an extract from the *Times*, I think it was, regarding the Oxford Labour Union.

Mr. T. C. Goswami: No, it was from a press report which I saw in an Indian paper.

The Honourable Sir Alexander Muddiman: I very often come to this House with information which I cannot give to the House. The House is a little doubtful at times, but it is not unreasonable that it should be. I will now give my Honourable friend a little information connected with the University to which he is rightly so attached. This is from the *Times* of Tuesday, January 26th, which I was reading in bed this morning. I thought my Honourable friend might be interested in it. It runs thus:

“ Sir.

In the issue of the *Times* for the 9th December there appeared a notice that members of the University of Oxford had been endeavouring to induce Indian students to join the Communist Party. The Vice-Chancellor and Proctors, who had not previously been informed of the charge, investigated the statement and found it fully substantiated. The evidence on which they based their decision came to them quite independently of the Delegacy for Oriental Students. They have seen the undergraduates implicated and have required them to sign the following promise, with the alternative of being expelled from the University.”

—I will not read the promise but read on—

“ Both the undergraduates consented and have signed the undertaking.

Yours faithfully,

J. WELLS, *Vice-Chancellor.*”

That illustrates one form of activity that has been going on. I could not at one time have brought this matter before the House though it was known to me some time ago.

Mr. Chaman Lall: What is wrong about it, may I ask?

The Honourable Sir Alexander Muddiman: It is nothing to him no doubt.

Mr. Chaman Lall: It is nothing to you. It is merely freedom of speech.

The Honourable Sir Alexander Muddiman: Freedom to infect the lads who go from India, freedom to infect them with the desire to overthrow the Government as by law established, one of the basest and meanest crimes of all.

Mr. Chaman Lall: Do I understand that the Honourable Member would like to keep newspapers away from Oxford students?

The Honourable Sir Alexander Muddiman: No, but I would not like to see men infected by revolutionary societies. As my Honourable friend rightly said, the line between legitimate political agitation and revolution is sometimes difficult to mark; but there can be no doubt surely of the meanness of asking these lads to join in conspiracies against the Crown, to ask lads in college away from their home and guardians, in a foreign country at a susceptible and dangerous age to embark on these affairs. I should have thought that there would be no one in this House who would have taken exception to that statement. (Applause.)

Mr. Devaki Prasad Sinha: That is all in England. Such a state of things does not prevail in India.

The Honourable Sir Alexander Muddiman: Do the lads stay in England, or do they come back here?

Mr. Devaki Prasad Sinha: They get their infection in England.

The Honourable Sir Alexander Muddiman: Sir, that is my position. Colonel Crawford need not have appealed to an article in a newspaper. He could have appealed to the result of an inquiry held by an authority which even this House will believe, the Vice-Chancellor and Proctors, and even the Home Member cannot bias that authority. Moreover

Mr. T. C. Goswami: That action has been condemned by the body of undergraduates.

The Honourable Sir Alexander Muddiman: Believe me that leaves me cold. An entirely independent authority investigated this matter and found that these subterranean and cowardly methods were being adopted.

I have not much more on which I wish to detain the House. I too rather deprecate, Sir, the attack made on Mr. Donovan in the suggestion that because he is a nominated Member and an official his honesty is impugned

Mr. T. C. Goswami: Not at all, I did not say that. I said that in the case of some of the officials, in the scheme of nominations they come here only for a Session or so, and cannot be in touch with the run of business here.

The Honourable Sir Alexander Muddiman: I should have thought that experience gained as a Bengal Civilian might have been more valuable than the attending of debates in this House. One would have thought that in Bengal one would have sought for information rather than in this House.

Mr. T. C. Goswami: Not from the Bengal Government.

The Honourable Sir Alexander Muddiman: Now, Sir, I wish to make it perfectly clear to the House that these powers, as some one said, are a source of no pleasure to me or to the Government of India. We have retained them because we feel we need them and must have them. I wish to make it clear also that, as far as we can, we use them within a very limited scope. Some Honourable Members may be interested to know the exact facts as regards the figures. The figure is now 16; I think the last time I mentioned it to the House, it was 19. I say that because we do wish, as far as we can, to reduce the number of men under restraint

Mr. T. C. Goswami: How many of them have been transferred to the Ordinance section?

The Honourable Sir Alexander Muddiman: That is an entirely different question.

Mr. T. C. Goswami: From the frying pan to the fire. It is merely book adjustment.

The Honourable Sir Alexander Muddiman: Far otherwise, and the Honourable Member knows that is not so. The object of transferring them to the Ordinance is to enable a lesser form of restraint to be shown. We do not desire to impose restraints in excess of what is necessary, or what we think, however wrongly, to be necessary. The debate has ranged over a large area and many points taken up have been answered by previous speakers, and therefore I cannot be expected to go over the whole debate again. I put the case to the House as I put it before and as I shall continue to put it. For the time being these powers are necessary. We desire to use them in as limited an area and to as limited

an extent as possible. We try—I cannot say more because, after all, no human being can say more than that—we try to sift and examine the evidence that is placed before us to the best of our ability, and we try, as and when the time comes, to reduce the restraints to a minimum, and therefore I ask the House to reject the motion before them. (Applause.)

Mr. President: The question is:

“That the Bill to repeal the Bengal State-Prisoners Regulation, 1818, be taken into consideration.”

The Assembly divided:

AYES—46.

Acharya, Mr. M. K.
Aiyangar, Mr. C. Duraiswami.
Aiyangar, Mr. K. Rama.
Badi-uz-Zaman, Maulvi.
Chaman Lall, Mr.
Chetty, Mr. R. K. Shanmukham.
Das, Mr. B.
Das, Pandit Nilakantha.
Datta, Dr. S. K.
Duni Chand, Lala.
Dutt, Mr. Amar Nath.
Ghose, Mr. S. C.
Goswami, Mr. T. C.
Gour, Sir Hari Singh.
Ismail Khan, Mr.
Iyengar, Mr. A. Rangaswami.
Jinnah, Mr. M. A.
Joshi, Mr. N. M.
Kasturbhai Lalbhai, Mr.
Lajpat Rai, Lala.
Lohokare, Dr. K. G.
Majid Baksh, Syed.
Malaviya, Pandit Krishna Kant.
Malaviya, Pandit Madan Mohan.

Mehta, Mr. Jamnadas M.
Matalik, Sardar V. N.
Nehru, Dr. Kishenlal.
Nehru, Pandit Motilal.
Nehru, Pandit Shamla.
Neogy, Mr. K. C.
Piyare Lal, Lala.
Ramachandra Rao, Diwan Bahadur M.
Rangachariar, Diwan Bahadur T.
Ranga Iyer, Mr. C. S.
Ray, Mr. Kumar Sankar.
Samiullah Khan, Mr. M.
Sarfaraz Hussain Khan, Khan Bahadur.
Shafee, Maulvi Mohammad.
Singh, Mr. Gaya Prasad.
Sinha, Mr. Ambika Prasad.
Sinha, Mr. Devaki Prasad.
Sinha, Kumar Ganganand.
Talatuley, Mr. S. D.
Tok Kyi, U.
Venkatapatiraju, Mr. B.
Yusuf Imam, Mr. M.

NOES—49.

Abdul Qaiyum, Nawab Sir Sahibzada.
Abul Kasem, Maulvi.
Ahmad Ali Khan, Mr.
Ajab Khan, Captain.
Akram Hussain, Prince A. M. M.
Bajpai, Mr. R. S.
Bhore, Mr. J. W.
Blackett, The Honourable Sir Basil.
Bray, Sir Denys.
Burdon, Mr. E.
Calvert, Mr. H.
Carey, Sir Willoughby.
Clow, Mr. A. G.
Cocke, Mr. H. G.
Crawford, Colonel J. D.
Dalal, Sardar B. A.
Donovan, Mr. J. T.
Ghulam Bari, Khan Bahadur.
Gidney, Lieut.-Colonel H. A. J.
Gordon, Mr. R. G.
Graham, Mr. L.
Hezlett, Mr. J.
Hira Singh Brar, Sardar Bahadur Captain.
Hudson, Mr. W. F.
Hussanally, Khan Bahadur W. M.
Innes, The Honourable Sir Charles.

Jatar, Mr. K. S.
Lindsay, Sir Darcy.
Lloyd, Mr. A. H.
Macphail, The Rev. Dr. E. M.
Makan, Khan Sahib M. E.
Mitra, The Honourable Sir Bhupendra Nath.
Muddiman, The Honourable Sir Alexander.
Muhammad Ismail, Khan Bahadur Saiyid.
Naidu, Rao Bahadur M. C.
Neave, Mr. E. R.
Owens, Lieut.-Col. F. C.
Rahman, Khan Bahadur A.
Raj Narain, Rai Bahadur.
Reddi, Mr. K. Venkataramana.
Roffev, Mr. E. S.
Sim, Mr. G. G.
Singh, Rai Bahadur S. N.
Singh, Raja Raghunandan Prasad.
Stanvon, Colonel Sir Henry.
Tonkinson, Mr. H.
Vernon, Mr. H. A. B.
Vijayaraghavacharyar, Sir Tiruvalangadi.
Willson, Mr. W. S. J.

The motion was negatived.

THE INDIAN REGISTRATION (AMENDMENT) BILL.

Diwan Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, the motion* which I have to move is a very small and innocent one. It is to make an improvement in the administration of the Registration Department. This Bill has been before the House on three occasions before, first when I introduced it, secondly when I asked for its circulation and thirdly when it was referred to Select Committee. The object of this measure is to enable Local Governments to invest selected Sub-Registrars with power to hold inquiry into the matter of execution of a document when it is denied by the executant. As Honourable Members are aware if the executant denies execution of the document, the party is driven perforce to go to the District Registrar. Now, this measure enables a Local Government to invest competent Sub-Registrars with power to inquire into the fact of execution. The Select Committee has reported on it unanimously; they have placed the provision in the proper place under section 35. I proposed to add a provision to section 7 in my Bill, but the Select Committee preferred to put it under section 35 and Honourable Members need not be told much further about this Bill. As I stated, it is a purely administrative improvement in the administration of the Registration Act. Sir, I commend the motion for the acceptance of the House.

Mr. H. Tomkinson (Home Department: Nominated Official): Sir, I have spoken twice before on this measure and I have really very little to add now. The measure, as stated by my Honourable and learned friend, the Deputy President, is a permissive one. It will enable Local Governments to empower selected Sub-Registrars to inquire into the factum of registration when that has been denied. They can do that now in the case of Sub-Registrars whose offices have been combined with those of the Registrars under section 7 of the Act. Otherwise such inquiries must under the Registration Act be made by a Registrar. The necessary change in the drafting has been made by the Select Committee, as referred to by my learned friend and I think that the Bill, so far as that is concerned, is in order. The Bill may, I think, result in some small advantage to the administration. I think its value will be small; and remembering what took place here yesterday, when, on this ground only, a useful measure, in my opinion a more useful measure than this, for which I was responsible, was rejected solely on this ground, I might perhaps be justified on that ground in opposing the present motion. I do not, however, propose to do so. I merely say I hope that the Local Governments, in this case the Ministers, before they take action to empower Sub-Registrars under the provisions of this Bill, will make sure that they are really qualified to exercise the powers which may under this Bill be conferred upon them. Sir, I support the motion.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Diwan Bahadur T. Rangachariar: Sir, I move that the Bill be passed.

The motion was adopted.

*“That the Bill further to amend the Indian Registration Act, 1908, as reported by the Select Committee, be taken into consideration.”

THE HINDU RELIGIOUS AND CHARITABLE TRUSTS BILL.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I beg to move that the Bill to make provision for the better management of Hindu religious and charitable trust property and for ensuring the keeping and publication of proper accounts in respect of such properties, as reported by the Select Committee, be recommitted to a Select Committee consisting of the Honourable the Home Member, Mr. L. Graham, Mr. T. C. Goswami, Pandit Nilakantha Das, Mr. M. A. Jinnah, Mr. Chaman Lall, Mr. N. M. Joshi, Dr. S. K. Datta, Mr. B. Venkatapatiraju, Mr. Jamnadas M. Mehta, Lala Lajpat Rai, Mr. Bipin Chandra Pal, Mr. Kumar Sankar Ray, Mr. C. S. Ranga Iyer, Sir Darcy Lindsay and myself; and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.

[At this stage the President vacated the Chair which was taken by Mr. Deputy President, Diwan Bahadur T. Rangachariar.]

Sir, the history of this measure is well known to the House. The second reading or the Committee stage of it was under discussion by this House on the 30th January, 1925, and after a long debate the Bill was committed to the Select Committee by a substantial majority of votes, those in favour being 53 and against 39. All the objections which the Honourable Members who constituted the Select Committee have raised to the further progress of the Bill were considered on the floor of the House before its committal to the Select Committee, and I note, Sir, that the Select Committee have now returned the Bill without examining its details and with a note that they are against its principle. I read to you from paragraph 5 of the Report of the Select Committee:

“The Committee cannot accept the main principle contained in the Bill.”

Now, Sir, it is a question upon which I ask the opinion of this House, a question relating to the privileges of this House, whether, after they have accepted the principle of the Bill, it is open to the members of the Select Committee to say that they do not accept its principle. I venture to submit, Sir, that once the House commits a Bill to the Select Committee, the whole House stands committed to it, and it is no longer open to any member of the Select Committee to raise the question of principle over again before the Select Committee. I can conceive, and indeed it is quite possible, that the Select Committee after examining the details of the Bill may find that these details cannot be improved so as to be workable, and they may report to the House that they have not been able to carry out the orders of the House. That is a position which is not only conceivable but is perfectly natural to take. But, I submit, that it is a violation of the privileges of the House for a few Members of the Select Committee to say “We return this Bill as we do not like its principle”. If this thing is tolerated, any fight on the floor of the House for the committal of a Bill to Select Committee would be futile. It is perfectly useless asking the House to send a Bill to the Select Committee, because by sending a Bill to the Select Committee, you do not commit yourself to the principle which the Select Committee may not overrule. I therefore submit that the House should recommit this Bill to a Select Committee. I may point out, Sir, that amongst the signatories constituting the majority of the Select Committee who did not agree with the principle, strangely enough I find the names of Members who had voted for its committal to Select Committee, and who, therefore, I submit,

[Sir Hari Singh Gour.]

stood committed to its principle. How these Honourable Members can reconcile their vote at the time when the Bill was committed to the Select Committee with their action in the Select Committee is more than I can explain. I find, Sir, that the Honourable Mr. Rangachariar, Mr. Neogy and Mr. Naidu, who have now dissented from the verdict of this House, went with me into the lobby in support of the principle of the Bill. I submit, therefore, that it is necessary and desirable that this Bill should now be recommitted to a Select Committee. Some of my Honourable colleagues in the Select Committee, whom I have consulted, say they have no objection to the recommittal of this Bill to a fresh Committee. It may be that the new Committee may be able to carry out the purpose for which the Bill was committed to the Select Committee, and I feel grateful to them for the sympathy which they have shown and the support which I hope they will extend to my motion for recommittal. Sir, I move.

Pandit Madan Mohan Malaviya (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Sir, as a member of the Select Committee which has recommended that the Bill should not be further proceeded with I wish to explain the circumstances under which we did it. There is no doubt that the Bill was referred to a Select Committee after its principle being considered by the Assembly. But my friend Sir Hari Singh Gour is wrong in saying that that prevented the members of the Select Committee from examining the main principle of the Bill and from expressing their opinion regarding it. The principle of the Bill before us is that certain statements relating to Hindu religious and charitable trusts should be furnished to the Court and that any person should be free to inspect the statements and accounts and move the Court to ask for additional particulars. That was the main principle of the Bill. Now, Sir, when we examined it, some of us found this open to serious objections.

[At this stage Mr. Deputy President vacated the Chair which was resumed by Mr. President.]

In Act XIV of 1920 the Legislature laid down a very important principle in this connection and that was this, that

“Any person having an interest in any express or constructive trust created or existing for a public purpose of a charitable or religious nature may apply by petition to the Court within the local limits of whose jurisdiction any substantial part of the subject matter of the trust is situate to obtain an order embodying all or any of the particulars mentioned.”

The important point was that a person having an interest in any express or constructive trust was given power to make a petition to the court, and the Act required that he should show in his petition in what way he claimed to be interested in the trust. That was, I submit, a very important limitation. The Bill before us went beyond that, and purported to lay down that when an account had been filed, any person might inspect the account and apply for additional particulars or documents. The result would be that a person who had absolutely no interest might, by motives which might not be the promotion of public good, file a petition and create difficulties for the trustee which would not be productive of any good result. But that was only one of the reasons why the Select Committee recommended the course they have suggested. The Bill was very wide in its application and the Select Committee found that the Bill could not be properly amended by it. For one thing it was meant to apply to any permanent dedication by a person professing the Hindu faith of any property

for any purpose recognised by the Hindu law as religious, pious or charitable. That dedication may be verbal or under a deed or instrument. The Select Committee felt that this was a very comprehensive provision, that it would not be easy to work out such a provision, and that it was likely to give rise to much litigation which would not be productive of much good result. The Select Committee pointed out that the definition of "trust" in the Bill was far too wide. Sir Hari Singh Gour said that we could limit the definition but then we would have had to frame a very different measure. We also found that the Bill did not make any provision for the better management of Hindu religious and charitable trust property. Merely asking for the filing of accounts would not go very far, and it was felt that a Bill should be prepared which should provide in a satisfactory manner for the constitution of committees which would be in charge of religious and charitable institutions or a statutory body which would deal with questions relating to the management of such institutions. If these changes which were necessary were made the Bill would become a very different measure, and we did not think we could undertake to do it in the Select Committee. It was no doubt urged by some Members that we should do it, but the majority were of opinion that the measure would require very careful consideration and that we should not attempt in Select Committee to frame such a measure.

We also found that there was a large and influential body of opinion, including nearly all the Local Governments, against the proposed measure. It was also pointed out that Act XIV of 1920 provided a machinery by which much of the object which this Bill had in view could be attained. Act XIV of 1920 provided facilities for the obtaining of information regarding public trusts of a charitable or religious nature, to enable the trustees of such trusts to obtain the directions of a court on certain matters and to make special provision for the payment of the expenditure incurred in certain suits against the trustees of such trusts. We thought that the facilities which this Act provided could very well be utilised by those who were interested in bringing about a better administration of religious and charitable trusts and that they should make use of the provisions of this Act. The only important limitation on their action would be that they must show that they were somehow or other interested in the trust. As the Bill before us was framed it would be open to any Hindu, and not merely to any Hindu but to any person whatever faith he may belong to, to file a petition asking for the accounts of a *mandir*, a Vaishnav *mandir* or a *mandir* of any other denomination, and the majority of the Select Committee felt that it would not be right that the Legislature should arm any person with power to ask for the accounts of an institution in which he was not interested. Even with regard to Hindus it was felt that there should be a provision as there is in Act XIV of 1920 that only persons who are interested in a particular trust should have the power of petitioning for a production of accounts.

The next point which weighed with us was that there was a body of opinion that this was a matter which should be taken up by provincial Legislatures. The provincial Legislatures will be better able to have light thrown upon the various questions relating to the temples within their jurisdictions; there would be many more representatives of the province who would be able to speak with greater knowledge regarding the management of those temples and it would be possible that the matter should be discussed with the managers of temples and others interested in the trust property on the spot. It is possible that a measure might be decided upon after

[Pandit Madan Mohan Malaviya.]

such consultation which would be acceptable to those managers and others interested in trust properties, whereas by passing an Act of the comprehensive character like the Bill before us we would be antagonising the managers and *mahants* and creating a great deal of alarm in their minds and giving them just ground for complaint. One of our colleagues who differed from us thinks that these temples are national assets and that therefore anybody who is interested in the nation might be given an opportunity to make a petition for accounts or further particulars relating to a trust. I am sorry I do not agree in that view. We felt, the majority in the Select Committee, that as the Government have recognized the wisdom of allowing the Sikhs to have a Sikh Gurdwara Act by which those who are interested in the Sikh Gurdwaras have been given facilities to have the management of Gurdwaras improved, so also in the case of the Hindus there may be an Act passed after further careful consultation in the provinces primarily, and, if necessary in the Central Legislature eventually, after consulting those most interested as to the form in which such an Act should be passed. The object of such legislation cannot be served without the co-operation of those who are directly interested in the management of such trusts, and we felt on a consideration of all the points that came before us, that the best course for us was not to attempt to prepare a new Bill on the lines on which it would have to be prepared if we were to remove all the objections and provide all the facilities desirable, but to recommend to the Assembly that the Bill should not be further proceeded with. Of course it leaves it open to Sir Hari Singh Gour and any other Member to prepare a measure which will obviate the objections which have been urged and make it acceptable to the general community who are concerned in the religious and charitable trusts. One point I wish to emphasise and that is I submit of great importance. I hope this Legislature will not attempt either now or hereafter to legislate regarding religious and charitable trusts belonging to any particular community except with the consent and approval of the general body of that community. I think the consent and approval of the general body of the Hindu community is not forthcoming for the measure before us, and therefore this Bill should not be proceeded with. We should proceed only when a proper measure framed after consultation and discussion with those who are entitled to speak on these subjects has been prepared and placed before the Assembly.

Sir Hari Singh Gour: On a point of order, Sir, I wish to know whether after the Bill has been committed to a Select Committee it is open to the Select Committee to return the measure without looking at it, on the ground that they do not like the principle of the Bill?

Pandit Madan Mohan Malaviya: Sir, I rise to make a correction at once. Dr. Gour is wrong in saying that the Select Committee did not look at the Bill. The report itself shows that every vital point connected with the Bill was considered. Of course we did not go step by step recording an opinion on every point. But the many points that arise in the Bill were considered, as the report shows.

Diwan Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): On that point of order I wish to mention that this is not the first time that Select Committees have reported to the Assembly that a particular Bill be not proceeded with. My own recollection is that my friend, Mr. Neogy, brought in a Bill as regards the Legal Practitioners Act. The Select Committee reported that it need not be further proceeded with.

Sir Hari Singh Gour: Was it without his consent?

Diwan Bahadur T. Rangachariar: Whose consent?

Sir Hari Singh Gour: Mr. Neogy's consent?

Diwan Bahadur T. Rangachariar: What has that got to do with it? What has Sir Hari Singh Gour got to do with reference to the powers of the Select Committee? The Select Committee examine a Bill, they carefully examine the opinions received on the Bill and printed and placed before them. They give elaborate reasons why they recommend it; they make a recommendation to the Assembly. What has the Mover got to do with it? If the Mover wants to withdraw, he withdraws it under another clause. The Select Committee performs their functions; and therefore all that the Select Committee have done is to follow the precedent in this matter. I dare say Mr. Graham will be able to bear me out. I remember one instance. There was also another instance, a Government Bill which was also reported not to be proceeded with with reference to certain other things; and therefore, Sir, I think it is perfectly open to a Select Committee to make a recommendation; after all, they make a recommendation to the Assembly.

Mr. M. K. Acharya (South Arcot *cum* Chingleput: Non-Muhammadan Rural): Sir, I also desire very strongly to oppose the motion before the House.

Mr. President: Is the Honourable Member speaking on the point of order?

Mr. M. K. Acharya: No, Sir.

Mr. President: The Chair cannot lay it down as an invariable rule that in no case can the Select Committee report that the House should not proceed with a Bill committed to it. Indeed, it is easy to conceive of circumstances in which it might be necessary for the Committee to make such a report. But at the same time the Chair is quite clear that it is not open to the Select Committee to say that it does not agree with the principle of the Bill. I regret to find that the Committee in this Report has stated that "the Committee cannot accept the main principle contained in the Bill".

Diwan Bahadur T. Rangachariar: Might I mention that that is a mistake of language? What it refers to is the principle of the machinery.

Mr. President: If that is so, the Committee should have been more careful in drafting its Report.

Diwan Bahadur T. Rangachariar: That is what is meant, Sir.

Mr. President: The Report is quite clear: "The Committee cannot accept the main principle contained in the Bill." It is not open to the Select Committee to say that it does not accept the main principle of the Bill. On the other hand it is quite open to this House to reconsider its own decision and say that it rejects the principle which it had once accepted. No one can take away the right of this House to revise its own decision, and this motion for recommittal affords an opportunity to the House to say whether it shall revise its decision or not.

Kumar Ganganand Sinha (Bhagalpur, Purnea and the Santhal Parganas: Non-Muhammadan): A point of order, Sir. Can the House recommit this measure to another Select Committee, or should it refer it to the same Select Committee?

Mr. President: The House has the power to reconstitute a Select Committee and recommit the Bill to it.

Mr. E. R. Neave (United Provinces: Nominated Official): Sir, I rise to oppose the proposal of Sir Hari Singh Gour to recommit this Bill to a second Select Committee. I was surprised, after I had read the somewhat abundant literature contained in these white papers and the Report of the Select Committee, to find my Honourable friend once more demanding further consideration for this Bill, which has already been condemned both by its own Committee and by the great body of influential and responsible Hindu opinion in this country. With regard to the point taken by Sir Hari Singh Gour that the Committee condemned him unheard and without reading his Bill on the question of principle only, I would refer him to the Report of the Committee itself. At the end of the 4th paragraph the Committee announce their decision to recommend that the Bill should no further be proceeded with on grounds which they have already given in the preceding paragraphs. It is after this announcement that the Committee refer to their objection to one of the principles of the Bill.

Sir, the partiality of a father to his child is proverbial in all countries and possibly the House may be inclined to look with an indulgent eye on Sir Hari Singh Gour's reluctance to let this infant perish; but, Sir, as a matter of fact it is not his child. (Laughter.) It is Maulvi Abul Kasem's child which Sir Hari Singh Gour has adopted and has somewhat inadequately disguised in Hindu raiment. If any Member of the Assembly will take the trouble to compare this Bill with the Mussalman Wakf Act of 1923, he will see that paragraph by paragraph and word for word one is a transcript of the other with the substitution of "Hindu" for "Mussalman", "trust" for "wakf" and "trustee" for "mutawalli" wherever they occur. There are also one or two very minor alterations. An indication of the careless way in which this Bill has been prepared may be found in the defining clause. In that clause there is a definition of the word "benefit". Now, the word "benefit" appears in the Mussalman Wakf Act, but Members will search in vain for it in the Bill under discussion.

I think that every one is agreed as to the excellence of the intentions of the Mover of this Bill and the need for some sort of control over a number of Hindu charitable endowments, but the question is whether this Bill as drafted could possibly secure those aims. In the Preamble the Bill undertakes:

"to make provision for the better management of Hindu religious and charitable trust property and for ensuring the keeping and publication of proper accounts in respect of such properties."

As has been pointed out by Sir Tej Bahadur Sapru, one of the many distinguished lawyers who have disapproved of the Bill, the promise in the first and most important part of this Preamble is not fulfilled and no attempt is made to fulfil it in the Bill which concerns itself solely with the furnishing of accounts. Passing on to the matter of the Bill itself, the defining clause starts with the definition of the word "trust". It is perhaps somewhat surprising to find a lawyer of Sir Hari Singh's immense erudition and

the author of so well known and so widely used a work as the "Hindu Code", employing the word "trusts" in connection with Hindu charitable endowments. As he must be well aware, the Privy Council have on various occasions drawn attention to the unsuitability of this word for the purpose. In a well known ruling in 44 Madras they have pointed out that a trust in the sense in which the expression is used in English law is unknown in the Hindu system pure and simple and further that the Indian Legislature in the Trust Act has been careful to exclude from its scope the rules of law applicable to Hindu religious endowments. Yet we find Sir Hari Singh Gour employing this term in both the Title of the Bill and throughout for the purpose of describing such endowments. I should like here to enter a protest against the practice of employing words in one Statute in a sense entirely different to that in which they are used in all other Statutes. The definition of "trust" in this Bill is like no other definition of that word anywhere. The practice is one which causes considerable difficulty afterwards both to Judges and to the litigant public. It is bound to increase litigation owing to the uncertainty of the meaning of the law to which it gives rise. The definition of "trust", however, bristles with objectionable points. I had better read to the House the whole definition, which is as follows:

"'Trust' means the permanent dedication by a person, professing the Hindu faith, of any property for any purpose recognised by the Hindu law as religious, pious or charitable."

Sir, a great many of the critics of the Bill have objected to these terms "professing the Hindu faith." They have inquired what the Hindu faith is and whether a Hindu is one who professes a faith. That is a question which, I think, perhaps Hindu Members of the House will be better able to answer than myself. "For any purpose recognised by the Hindu law," is, again, an obscure phrase which is likely to give rise to an infinite amount of trouble in the courts later on. There are various purposes which would ordinarily be regarded as religious or charitable but which are not or have been held not to be such under the general Hindu law. Again, it is doubtful whether the phrase would include the law applicable to particular sects as apart from the general law. I can only suppose that the Honourable Mover of the Bill intends the definition of "trust" and "trustee" as what is sometimes now-a-days spoken of as gesture, a gesture of defiance to their Lordships of the Privy Council who have repeatedly, as I have already said, held that in many instances neither these endowments nor their managers come within the meaning of those terms. Again, the Bill appears to provide no machinery even for the attainment of the purpose to which it has been whittled down. There is nothing to indicate how the so-called trustees are to know that they are required to furnish accounts in the first instance. It is true that if any trustee does furnish such account, clause 4 provides that any person may apply for the issue of an order requiring him to furnish further particulars and accounts, and may apply to the Court, which has been defined in clause 2 as the court of the District Judge. But if a trustee abstains in the first instance from coming forward and doing what he is required by the Bill to do, it does not appear that the District Judge or any person can take any action whatever in the matter except under the penal clause in clause 10. That provides a penalty for trustees who fail to furnish the required statement or give misleading or untrue information. But here again it is not suggested who is to set the

[Mr. E. R. Neave.]

law in motion. From the language of the clause itself it is clear that the District Court can have nothing to do with it. The failure of the trustee is spoken of as an offence and the jurisdiction will therefore be that of a criminal court. Now, who is to take the matter into the criminal court? Presumably "any person" as in clause 4. Now it must be clear that the giving of such a power to the world at large is opening a door to blackmail and to the gratification of personal spite. Any manager of a charitable endowment who has not furnished accounts can presumably be brought before the criminal court by anybody who chooses to do so, and it is further provided that the burden of proving that he had some reason for not producing these accounts is to lie upon him. Now suppose, as is most probable in view of the definition of trust and trustees, that his defence is that he is not a trustee, and that this is not a trust. Well, you will have an extremely intricate and difficult question of Hindu law to be decided by a criminal court, and, reversing the usual principle that every man is innocent till he is proved guilty, you will by throwing the burden of proof on the accused person imply his guilt from the beginning.

Well, Sir, I do not know that it is necessary for me to say much more on this matter. The reasons of the Select Committee for refusing to proceed with it have been given by them, and their names appear at the foot of their Report. From this it will be seen that 7 out of the 10 Members were against it. The two who were with the Mover of the Bill have not in any way answered the very cogent reasons given by their colleagues, though one of them does say with somewhat dubious hopefulness that he thinks it would be unfair to suggest that the Bill is past all surgery. Nothing, however, except complete reconstruction could make anything of it. I do not know whether it is the intention of this Assembly that Select Committees should do the entire work of drafting Bills. The Honourable Member appears to desire this Bill to be regarded as no more than a suggestion of the lines along which he would like to have a Bill drafted, and he now asks the House to order another Committee to do this job for him. Incidentally, it may be observed that he desires that among the new Committee the two stalwarts who sided with him should once more be found. Well, Sir, I would urge the House to hesitate before giving another Committee the trouble of once more going through and having to redraft this Bill. (Applause.)

Diwan Bahadur T. Rangachariar: Sir, I have always got great admiration for the persistency of my Honourable friend, Sir Hari Singh Gour, but I cannot say I have got the same respect for his judgment in matters of legislation. Sir, what is it the Honourable Member seeks us to do? He admits the definition of the word "trust" is far too weak and he says, "Now Select Committee, do the job for me and improve the definition". He admits that the machinery provided may be different and he says, "Now you Select Committee, do the job for me and find the suitable machinery". And he says the language is not apt, "Now you Select Committee do find the apt language for me". We have done so before for him several times whenever it was necessary to do so. For instance in his Reciprocity Bill, which he brought into this House, the whole House sat in Committee and improved it out of all shape

Sir Hari Singh Gour: Out of all shape?

Diwan Bahadur T. Rangachariar: Out of all original shape, out of all recognition. He brought his Civil Marriage Bill

Sir Hari Singh Gour: You have put it out of all existence too by substituting "may" for "shall".

Diwan Bahadur T. Rangachariar: We have tried to help Dr. Gour in satisfying his thirst to have put on the Statute-book measures to be called after Dr. Gour.

I should have been most happy to have lent a helping hand in this if it really contained something which could be useful to the country. On the other hand, it is bristling with difficulties. My learned friend talks of the Hindu faith. What is the Hindu faith? What is it, I ask? What is the Hindu faith? The religion of Ramanuja is my faith. Is Dr. Gour's faith the same as mine? Does he believe in Theerthas? Does he believe in Shradhas? Does he believe in Pithres? We are all of the Hindu faith. Sir, he is talking without knowledge of our religion. I do not say there is any Hindu faith which I profess. I am a follower of Ramanuja. I do not believe in all the divinities which I find exposed on the road-side. Sir, I see a chain hanging from a tree, and I find my tenants worshipping, prostrating themselves, offering various things to that chain. Do I believe in that chain? Certainly not, but they believe; and we are all of Hindu faith. There are so many other things. I have nothing to do with Shiva temples. In fact, my religion forbids me to recognise anybody else as a God; they are all *bhaktas* to Narain and Narain is my only deity. Shiva, Vishnu and others are mere *bhaktas* or devotees. Therefore I do not believe in these things. For instance I do not go and worship in the temple of Kali at Kalighat at which my Honourable friend Mr. Goswami worships. I do not believe in animal sacrifice which my Honourable friend believes in. But we are all of the Hindu faith. My Honourable friend Mr. Goswami if he really resorts to Kalighat probably offers two pairs of goats. (*An Honourable Member:* "Why two pairs?") I do not know how many but I do not believe in it. Therefore, Sir, to talk of the Hindu faith only shows that the person knows nothing of the Hindu faith. At any rate I do not believe he can be a Hindu. Sir, as regards the definition of the word "trusts" or "dedication" my Honourable friend Mr. Neave has elaborately dealt with that; but supposing I set apart immoveable property of the value of Rs. 10,000 which would yield an interest and I want two Brahmins to go and bathe in the Ganges for my benefit, does my Honourable friend believe in that? Many millions of Hindus believe in it. My Honourable friend would say "Oh you superstitious set of people, you orthodox set of people! I have come to save you from this!"

Sir Hari Singh Gour: I am afraid I cannot save you.

Diwan Bahadur T. Rangachariar: I know that. I wanted to draw that out from you. You are not legislating for the millions of this country. We are not all Dr. Gour's. The Hindus of this country are certainly not Dr. Hari Singh Gour's. Therefore they are different from him, and therefore let him desist from imposing his will and his legislation upon the Hindus of this country. They want to be saved from such as you! Sir, what is this provision which Dr. Gour wants? My Honourable friend Mr. Goswami says "Oh you cannot include family trusts such as *debuttars* in the Bill". Very well. Dr. Gour says, "If that is your pleasure, remove

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it." Some other person says some other sort of trusts should not be included. Very well, exclude it. Then what is left? Public trusts, public religious or charitable trusts. Now, Sir, may I ask him, is it such an easy thing to define these religious or charitable trusts? Has my Honourable friend ever visited places of pilgrimage? Has my friend gone to Hardwar? Has he seen on the way several small shrines installed, in which professional people sit and pretend to make offerings to the idols there and besmear them with various things? Does my Honourable friend know that devotees go and pay these men? Now, is that man a trustee under this Bill or not? He makes his living out of it; he exposes the image of Krishna, or Radha, or Rama or Sita and he sits under a tree or puts up a small shrine on the way. We see them all along the way. Has my Honourable friend ever visited Ayodhya? Has he seen the numerous shrines of Rama and Sita there? They are all institutions which will come under my Honourable friend's Bill. There are millions, multi-millions of institutions like those; and all these people will be trustees—people who make a living out of it. Who is to define them? How are you to define them and find them out? My learned friend did not understand the magnitude of the task which he imposed upon himself by bringing forward this Bill.

Sir Hari Singh Gour: You understood it when you voted for its reference to Select Committee.

Diwan Bahadur T. Rangachariar: Yes. I believe in *tirthas*; I believe in *shraddhas*; does my Honourable friend believe in them? Does my honourable friend believe in a bath in the Ganges at Hardwar, at Benares or at Prayag? Does my Honourable friend believe in that, or does he believe in the *shraddhas*? Therefore, there are so many things to consider; there are endowments made for feeding Brahmins; does my Honourable friend believe in it? He thinks it is a superstition. He may say it is not a trust; it is a void trust and that it should not be recognised. All those difficulties will arise. Therefore, Sir, I ask my Honourable friend to hesitate. By all means let us have his assistance in matters of putting right Hindu law, the criminal law, criminal procedure, etc., and various other things. But in matters affecting religion it is wise not to rush. After all I am not interested, for instance, in the famous temple at Benares; I am not a worshipper there; why should I be clothed with rights with reference to that temple? I am interested in certain temples; each Hindu is not interested in all temples. Does my Honourable friend know what Totadri Mutt is and what is the difference between the Ahobilam Mutt and the Vanamamalai Mutt? Does he know the difference between the Kumbakonam Sankaracharya Mutt and the Shringeri Sankaracharya Mutt? Does he know the difference between the Vyasraya Mutt and the Uttaradi Mutt? Does he know the difference between the Dharmapuram Mutt and the Tiruvaduthurai Mutt? The difficulties are so many that you cannot legislate here. The Central Legislature sitting here at this distance cannot legislate for all conditions and for all people in India. That is pointedly brought out in the numerous opinions which we studied. I quite agree that I voted with my Honourable friend for the reference to the Select Committee on the last occasion. I had not read the opinions on that occasion. The opinions are many; they are the opinions of influential people, well-informed people and they show that this is a

matter which you must leave to provincial Legislatures if really such legislation is required, and in what matters legislation is required. What is it that my Honourable friend seeks to provide? We are all concerned in protecting public charitable trusts; I do not know about religious trusts; I do not think it is the function of the Government to interfere with religious trusts; of course every civilised government does not concern itself with religious trusts; people are protesting against established churches. So each church is left to itself. Would Catholics tolerate the interference of Protestants in the internal management of their affairs? Similarly, Sir, why should I, a Ramanuja follower, submit to Dr. Gour and his friends? Why should people belonging to a particular *mutt* submit to the dictation or the control of other people who do not belong to that *mutt*?

Therefore, the point is this. What is it that this Bill provides? It seeks to provide for public charitable trusts. All the objects which my Honourable friend has at heart are contained in Act XIV of 1920, which was only recently passed by this Legislature. He wants information as to trusts. That is provided for in this Act. It says that any person may apply by petition to the Court within the local limits of whose jurisdiction any substantial part of the subject matter of the trust is situate to obtain an order embodying all or any of the following directions, namely, directing the trustee to furnish the petitioner through the court with particulars as to the nature and objects of the trust, and of the value, condition, management and application of the subject matter of the trust, and of the income belonging thereto or as to any of these matters, and directing that the accounts of the trust shall be examined and audited. So that, Sir, all the three objects, that is, getting accounts, getting information and getting audit, are provided for already, in the case of public charitable and religious trusts, in Act XIV of 1920. And I know these *mahants* and managers and *dharma-kartas* are the cheap objects of ridicule, because if one commits a mistake, the blame is thrown on the whole lot of them. But there is really Act XX of 1863, I mean the Religious Endowments Act of 1863. As regards the Charitable Trusts you have got the old Regulation VII of 1817 in Madras which applies there, and there is also the Regulation of 1810, which applies throughout Northern India, by which public charitable trusts are protected. Not only that, under the District Boards Act, if I remember aright, Charitable Trusts are also safeguarded and handed over to Local Boards, and there is any amount of information available to those who really want to have any information about the trusts. Therefore, Sir, Act XIV of 1920 provides for it, and section 92 of the Civil Procedure Code enables a person to be called to account, a trustee to be removed, schemes to be made for the better management of public charitable and religious trusts. Therefore, what is it that my friend wants? He wants now some new work to be given to civil courts. As I have already pointed out, what will be the magnitude of the task which will be imposed on the civil courts? My Honourable friend Mr. Vernon, as a Member of the Board of Revenue, will perhaps tell the House what multitudinous charities are spread over the Madras Presidency. Now, if each of these people are called on to furnish accounts,—it includes charitable, religious and other trusts of a vague and visionary character,—if each of these people are to furnish accounts to courts,—any person may apply to the court,—then what is the court to do? Is it to do its judicial work or is it to go on examining the accounts submitted by these people? Is

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that the function of a civil court, I ask? Is it the function of a civil court to make registers of charities, or is it the function of the revenue authorities? The revenue authorities are the people best fitted for that kind of work. They have got their village officers from whom information could be obtained

Again, Sir, I submit this matter must be left to the communities concerned. We all ask for self-determination in various directions, and therefore the communities also, I think, are entitled to ask for self-determination. I think in this matter the Sikhs have set a very good example by providing for a tribunal of their own in their Act. They have established a communal tribunal which calls for information and which decides what shall be deemed to be public trusts.

Sir Hari Singh Gour: May I ask my friend if I did not agree to the course in the Select Committee?

Diwan Bahadur T. Rangachariar: I know my friend agreed to this course in the Select Committee. But what we meant was:

“that the Committee cannot accept the main principle contained in the Bill, namely, that the information as to Hindu religious or charitable trusts should be furnished to the Court and the Court should be the administrative authority for dealing with the statements and accounts. The Bill as it stands affords opportunities to any person to inspect statements and accounts and the result will be a fresh crop of litigation and enormous additional work for Civil Courts. Some of us consider that the proper machinery to deal with these public trusts is a statutory body composed of members of communities concerned, such as has been recently constituted in the Punjab in the case of Sikh Gurdwaras. We are doubtful whether, having regard to the scope of the Bill, we can embark upon substituting that agency for the agency provided in the Bill.”

So that the Assembly had no opportunity to discuss that question. That is a new suggestion which came upon us after reading the section in the Sikh Gurdwara Act, and we thought that the machinery provided there is a proper one, but the Assembly had no opportunity to consider that. My Honourable and learned friend no doubt said that such course could be adopted, but we felt doubtful whether we could really embark upon a new course altogether by substituting a new idea which this Assembly was never seized of. On the whole, Sir, as I have already pointed out, the main objects of the Bill are provided for in Act XIV of 1920, and my Honourable friend may well wait and see how this Act is being availed of by the people. So far as I know, in the Madras Presidency, this Act is not much availed of, and it is because there is very little complaint about it. If there is, people will come forward, and we know that facilities have also been given under the Court-fees Act to enable people to come forward without paying heavy court fees. They can supply by petition under this Act, so that they need not pay any court fees. That need not stand in the way of the public coming forward. If really there is mismanagement, the community

concerned must take care of it. Hindu trusts are mostly religious trusts. It may be for feeding Brahmins on a Dwadeshi day or on any other particular occasion. There are various other forms of trusts. They are of multitudinous and various kinds. I therefore submit that there is great force in the objection taken by Local Governments, which went through this matter with great care, that this is a matter in which the all-India Legislature should not interfere. Sir, I submit that no useful purpose will be served by sending this back to a new Committee and much valuable time can be otherwise spent. I therefore oppose this motion of my Honourable friend.

5 P.M.

One more point which my Honourable friend Mr. Goswami has referred to. I rather scent danger there. With his usual Swarajist spirit he wants nationalisation of these trusts. Why not nationalise the Churches? He wants to take the Hindu trusts, because the Hindus are an easy prey for attack for them. The Muhammadans nobody dare touch. Christians and Europeans nobody dare touch. The Hindus are an easy prey for attack, and therefore, my Honourable friend says, "Nationalise all these religious trusts." Sir, I scent great danger. Such a tendency should not be encouraged. These are religious trusts and we must leave it to the communities concerned to take care of them. The Legislature should by all means help in establishing any communal machinery to enable the communities concerned to take care of their interests. I do not say that the Legislature should not legislate for these things. But the proper procedure for the Legislature is to establish tribunals composed of the communities themselves which are interested in the religious or charitable trusts to take care of these institutions, and not invite all and sundry to come and look after their religious and charitable trusts. We resent it and I ask this House to reject this motion.

Mr. C. Duraiswami Aiyangar (Madras ceded districts and Chittoor: Non-Muhammadan Rural): Sir, I am extremely surprised at my friend the Honourable Diwan Bahadur Rangachariar getting up to-day and talking in such ludicrous terms about the Bill that is placed before this House. I ask him whether he knows that there exists a term "public religious trusts" or not, a "public charitable trust" or not. My friend advises this Assembly to-day to go and have self-determination for a trust which in his own opinion he thinks does not exist anywhere. He puts it as though it is the whim and fancy of a single individual to allot any particular amount for any endowment, and he would call every endowment in this country as purely a whimsical private individual endowment and not a public religious endowment or a public charitable endowment. And yet, Sir, I know that Diwan Bahadur Rangachariar himself has got a number of clients round him who are heads of public trusts, who are managers of public trusts whose interests he is advancing, and yet he thinks he can ignore the fact that there are public religious and charitable trusts

Diwan Bahadur T. Rangachariar: I did not deny that. Whoever said that I denied it? I only said that all trusts are not public charitable trusts. That is all I said.

Mr. C. Duraiswami Aiyangar: Nobody says, Sir, not even Sir Hari Singh Gour, about whom he has been expressing himself in such a fanciful manner, ever says that every trust in this world is a public trust. There may be a family settlement. There may be a private settlement. Nobody ever called that a public trust. But, Sir, when my friend comes and says that he is a follower of Ramanuja and Sir Hari Singh Gour does not know who Ramanuja is and went on to describe the various tenets of Ramanuja, I began to feel as if Ramanuja was somewhere coming down here to cry "Save me from my followers". That certainly was not the creed of Ramanuja and he unnecessarily and irrelevantly brought his name before this House. We are not concerned with this particular tenet or that particular tenet, with the Vyasarayya Mutt or any other mutt, but we know that there is something which is running common in all the institutions, in all public religious and charitable institutions. Nobody can ever deny

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that when a person has made an endowment for a religious or a charitable purpose that purpose must be safeguarded. The Diwan Bahadur may not believe in a particular faith. He may have no faith that anybody is saved by bathing in the Ganges, yet if there is a man who thinks that there is a good deal of spirituality to be acquired by bathing in the Ganges and for that purpose makes an endowment and wants that endowment to go on permanently, is it not the duty of the State and is it not the duty of the Legislature to see that that trust is not misdirected? It is not his faith that is our concern, or Sir Hari Singh Gour's faith, but the faith of the man who makes the endowment. Why, then, in the Devolution Rules do you find subjects put under "provincial subjects," like religious and charitable endowments. Why not repeal it, why not take it away altogether from the Devolution Rules and say that does not come within the purview either of the Legislative Council or of the Central Legislature? Sir, my Honourable friend himself has been quoting here the provisions of Act XIV of 1920. He is also aware of section 92 of the Code of Civil Procedure. What are these intended for? These are intended for safeguarding public religious and charitable endowments, and if these Statutes can exist, why not have a Statute which will make better provision to the same end? I ask him what he meant when he wrote in the Select Committee Report:

"While we feel that some better provision for the management of Hindu religious and charitable trusts of a public nature is needed."

Does he not subscribe to that sentence there? Does he not feel that there must be better provision for the management of Hindu religious and charitable trusts? When he wrote that, he was fully aware of the fact that Act XIV of 1920 existed, he was aware of the fact that section 92 of the Civil Procedure Code exists under which if any man interested in the settlement of a scheme for a particular religious institution wants to have such a scheme settled he can go to court and ask redress there. Was he not aware of that provision? Was he not aware of Act XX of 1863, the Religious Endowments Act? Was he not aware of the Madras Regulation VII of 1817? If he had all these before him, why did he subscribe to this statement here:

"While we feel that some better provision for the management of Hindu religious and charitable trusts of a public nature is needed."

He starts with that preface and closes with an advice to Government that he desires to add that in his opinion:

"the Government of India should take the initiative to satisfy public opinion in the matter and appoint a committee composed of Hindus of the various Provinces at an early date to advise them upon the measures necessary to protect trusts of a public character."

He starts with a preface, he closes with this and then he pleads here that there is absolutely nothing to be done by this Legislature and the Government and all that has to be done is by self-determination within the community itself. I am not myself much enamoured of the way in which my Honourable friend Sir Hari Singh Gour frames his Bills and very often he puts them in such a manner that they bring about much trouble here. I notice that a Bill which was brought before the House to simply define the word "attest" had to be referred to a Select Committee of a large number. No doubt, some mistakes do arise and I do not blame him for them and nobody can frame a Bill without naturally committing some mistakes. If instead of the words "any person" the words "any person interested in

that institution " had found their place there, much of my Honourable friend Diwan Bahadur Rangachariar's remarks would have absolutely no value. And, Sir, what is the purpose of a Select Committee? The object of a Select Committee is to make these verbal corrections and also substantial corrections if they become necessary. But altogether to say that no Bill is necessary at all in this country and everybody must be left to himself to set right his own religious institution or charitable institution or endowments is to abrogate the functions of the Legislature. My Honourable friend knows that for a very long time in Madras there was agitation and it was stated that the Religious Endowments Act of 1863 was absolutely of no use, that it set up a very expensive machinery and that several trustees could not be brought under discipline by virtue of Act XX of 1863. Several attempts have been made to remedy this and the latest attempt is now in the precincts of the court and I would not say anything about it. It is probably *sub judice*. But all the same it is admitted on all hands that legislation is necessary in order to bring these trustees under greater control. That is practically admitted here. Act XIV of 1920, my learned friend Dewan Bahadur Rangachariar stated, is not fully made use of, though it may be made more use of. I know four petitions are now pending in my Court under Act XIV of 1920. But what does Act XIV of 1920 amount to? If I remember the provisions aright, we can only ask the court to direct a particular trustee of one endowment to which the objection relates to furnish particulars or a statement of account for that endowment. If he refuses there is an end of the matter. The only privilege given by Act XIV of 1920 is that a competent person may file a suit thereunder without a sanction under section 92 of the Code of Civil Procedure, and if the trustee furnishes particulars the matter is dropped. You cannot give more directions to him. That is Act XIV of 1920. Now what is it that my friend advocates, that for every institution a separate petition can be filed in a district court. He will not allow Dr. Gour to bring a Bill whereby once for all a compulsory direction can be given that all the trustees should come and file their accounts in court, but on the other hand he would agree that for each institution a separate petition may be filed, it may be brought to trial and a separate inquiry may be held. So that if Act XIV of 1920 is to be made full use of, he does not in any way reduce the work of the court. Sir, it is part of the judicial work to administer charitable institutions. That is the principle underlying section 92 of the Civil Procedure Code. If a man wants a particular institution to be brought under control and discipline, it is the right of that man to file a suit under section 92, it is the right of that man to file a petition under Act XIV of 1920. Act XIV of 1920 gives such limited scope that much cannot be served by that. Therefore, Sir, one cannot deny that an enactment which will place on a better footing the management of religious and charitable institutions is necessary. That fact cannot be denied. But, Sir, it is said that these are matters for provincial Legislatures. It is no doubt a provincial subject, but it is also a central subject. But when a provincial Legislature undertakes legislation on these lines they say it is much better that the Central Legislature should take it up and make one uniform provision for the whole of India instead of being prejudiced by local conditions. If the Central Legislature takes it up, it is said that it is better to go to the provincial Legislatures. If you are going to blow hot and cold like that and drive it from one body to another, I think, Sir, that eventually it will be the trustees that will be benefited and not the beneficiaries, not the

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persons interested in particular trusts. It is, Sir, the duty of every legislature to see that every endowment of whatever kind it may be is protected and is brought under discipline for the benefit of those interested in that institution. I do not want my friend Diwan Bahadur Rangachariar to go and take steps about the Ahobila Mutt, but I think he must take necessary steps in regard to the Kotadri Mutt of which he was mentioning to you that he was a votary though as regards the Ahobila Mutt he will not move a single finger to set it right. These Mutts are not in a satisfactory condition.

Diwan Bahadur T. Rangachariar: That is not the position at all.

Mr. C. Duraiswami Aiyangar: That is the happy state of things which I wish had existed, but, Sir, as I know as much about it as Diwan Bahadur Rangachariar, I am in a position to say, that I can entirely contradict him. He says that that is not the position. Is he aware that the Ahobila Mutt came up for a scheme in the Madras High Court and a decision was passed there?

Diwan Bahadur T. Rangachariar: I have nothing to do with that.

Mr. C. Duraiswami Aiyangar: Then comes the question of the Thengalai and the Vadagalai Mutts.

Mr. Devaki Prasad Sinha (Chota Nagpur Division: Non-Muhammadan): May I request the Honourable Member to talk in an intelligible language?

Diwan Bahadur T. Rangachariar: It is very intelligible to us.

Mr. C. Duraiswami Aiyangar: The fact that Mr. Rangachariar has mentioned it to-day, I hope, does not concern me, and does not compel me to draw that distinction between himself and myself. Both of us are followers of Ramanuja, both call ourselves Aiyangars and Acharyas. Yet there is a difference. But whatever that may be, is he not aware that everyone in these mutts also in the Madras Presidency has been found fault with for mismanagement by its own votaries? If some of these people would like to go to Courts for settlement of a scheme, would he tell them that these are matters for self-determination, would my Honourable friend say that they should not go to court? Whatever it may be, it has never come to my ears, for all my experience of the Madras Presidency along with him, that my Honourable friend has moved a little finger anywhere advising them to have such disputes settled by private self-determination. Sir, I do feel that so long as we are the custodians of the public interest, it is our duty, just as we have framed a law for Muhammadans, also to safeguard and protect the Hindu charitable endowments. Once more, Sir, I plead that this Legislature should not divest itself of that responsible function, but at the same time I may say that I am not at all satisfied with any of the provisions as they exist in Sir Hari Singh Gour's Bill.

(Some Honourable Members moved that the question be put.)

Mr. President: The question is that the question be put.

The motion was adopted.

Sir Hari Singh Gour: Sir, I shall very briefly reply to the criticisms that have been levelled against my Bill. I can assure Honourable Members that I shall take the shortest time possible. I know now, Sir, that several

objections are taken to my measure. One is that you do not like the principle of the Bill. Sir, I thank you for having decided that once this House commits itself to the principle of a Bill, it can only reconsider it but it cannot ignore that fact. On that ground, Sir, I ask this House not to stultify itself by refusing the recommittal motion which I have made. Then, Sir, it has been said that there are various Acts that deal with this very question. Sir, before this House committed itself to the principle of this Bill, that was the argument used, and I have before me a full report of the debates in which the same argument was used from various quarters and was considered by this House to be insufficient. May I point out that Act XIV of 1920 does not cast upon the trustees the obligation to furnish accounts, and that there is no Act of the Legislature which casts upon trustees the obligation to discharge that simple and primary duty of furnishing accounts of their trust? This, Sir, is what my Bill provides for. Then Honourable Members will remember that Act XIV of 1920 applies to all trusts, Hindu trusts and Muhammadan trusts, and yet in 1923 the Legislature, with the assistance of the Government, passed a similar measure, namely, the Muhammadan Religious Trusts Act. And if they thought that measure necessary for the protection of Muhammadan trusts, why, I ask, are they now opposing a similar measure for the protection of Hindu trusts? Then, Sir, my friend, the Honourable Mr. Neave passed my Bill through a caustic criticism of its details. Being undoubtedly a Member new to the procedure of this House, he was probably unaware that the details of the Bill are not fit subjects of criticism at this stage. Indeed, if the details of my Bill were not such as to afford room for attack, I would not have moved that this Bill should go before the Select Committee. It is because I am conscious of the defects of this Bill that I ask this House to commit it to a Select Committee. I go further. The Honourable Mr. Neave can settle his differences with the occupants of the Treasury Benches and the Honourable Mr. Tonkinson. My Bill is a facsimile, an exact copy of the Muhammadan Wakf Act. It is not a revelation which the Honourable Mr. Neave has made, because it is stated in the Statement of Objects and Reasons appended to the Bill which was introduced in this House, and the history of this measure is this. It was originally intended to have an all-India comprehensive Bill including both Hindu and Muhammadan trusts on the lines of the Act of 1923, and we found that it would be better first to introduce a Muhammadan Wakf Act and then follow it up by an identical Bill applicable to Hindus and last of all to cement an weld the two into an all-India comprehensive legislation. It is under that agreement that the Muhammadan Wakf Act was helped on to its final stages by myself, and I ask my Muhammadan friends to support me in taking to the Select Committee a complementary measure, which is intended to complete the work begun in 1923. I have said I shall not detain the House. I ask this House to recommit this Bill to the Select Committee and I ask this House not to reconsider its decision passed as recently as January, 1925. What will the world say of you? My friend Diwan Bahadur Rangachariar has always 101 objections to every reforming measure that is introduced on the floor of this House. The other day, Sir, when I wanted to do away with a certain practice in Southern India, my friend ejaculated and made out a very strong case and said "Hullo, you are going to suppress this vice? What will become of the zemindars?"

Pandit Shanlal Nehru (Meerut Division: Non-Muhammadan Rural):
I supported you.

Sir Hari Singh Gour: He is the protector of the zemindar, the mahant and the trustee who violates his trust. Well, Sir, to-day he is the upholder of self-determination. I do not wish to temporise with my friend. I ask this House—and I do so with confidence—for the honour of its own prestige and on the merits of my Bill to recommit this Bill to the Select Committee. Sir, I move.

Mr. H. Tonkinson (Home Department: Nominated Official): Sir, I do not know whether there is much doubt in this House as to the attitude of Government towards this Bill. But as I had not had an opportunity of speaking in this debate before the closure was moved, I think I must go into it at some length.

Sir Hari Singh Gour: At some length?

Mr. President: How long is the Honourable Member going to take?

Mr. H. Tonkinson: I doubt whether I shall take more than a quarter of an hour, Sir. The Bill, Sir, has been before this House on several occasions and the attitude of Government towards it has been indicated on those occasions at some length. Sir Malcolm Hailey, for example, on the 28th of February, 1924, when the motion was moved for its circulation for the purpose of eliciting opinions, stated he confessed that he had some doubts as to whether this subject should not be dealt with in the provincial Legislatures. The Honourable the Leader of the House dealt with the question again in September, 1924, and as a wholly provisional opinion indicated that he doubted whether a Bill drawn on the lines of the present Bill was one which was really required. It came up again, as my Honourable friend has said, on the 25th January, 1925, when the debate on the motion for reference of the Bill to a Select Committee was resumed. The then Law Member, Sir Narasimha Sarma, opposed the Bill. I do not think it is necessary to quote from what he said, and finally it was opposed by the Leader of the House. The Bill was nevertheless referred to a Select Committee and we have now before us the Report of that Select Committee. That Report certainly confirms Government in the attitude which they have all along taken towards this Bill. They are in full sympathy with the Mover in his object of endeavouring to prevent the malversation of the funds of these endowments. But they do not consider that a Bill on the lines of the present one should be passed in the Indian Legislature. On previous occasions opinions of the authorities consulted upon this Bill have been referred to. They have scarcely been mentioned to-day. As this is a transferred subject administered by Ministers in the various provinces; I think it is absolutely necessary that I should mention some of these opinions again. I will only refer to those given in the précis of opinions. I will take only the major Local Governments, that is to say, the Ministers in the major provinces. The Government of Bombay accept the principle of the Bill but agree with the Commissioner of Sind that since the Hindu community is not as homogeneous as the Muhammadan community, and the Hindu trusts are of a much more varied character than Mussalman Wakfs, a single enactment like the proposed Bill would not meet the purpose and are further of opinion that the subject matter of the proposed legislation being a transferred subject, legislation on the subject should be undertaken in the local Councils. The Madras Government state that the Governor in Council, in view of the fact that religious and charitable endowments is a provincial and transferred subject, is of opinion that any legislation for this purpose should be passed by the Provincial Council and not by the Central Legislature. The Government of Bengal say that they do not accept the provisions of the Bill which they consider as unworkable

and open to many objections. They specially condemn the provisions of clause 9 as positively dangerous and quite unnecessary. They are further of opinion that legislation on the subject cannot suitably be undertaken in the Central Legislature and that it should be left to the Minister in charge to formulate his own policy. The United Provinces Government say that the Governor in Council, though in sympathy with the intentions of the Mover, is, after a detailed criticism of the provisions of the Bill, not in favour of the Bill and agrees with Sir Tej Bahadur Sapru that legislation on the subject should be undertaken by provincial Legislatures. The Government of the Punjab say that there is generally a distinct desire among all thinking sections of the Hindu community for legislation to control their religious endowments, but in view of the complexity of the problem most of those who have been consulted are in favour of provincial legislation. The Government of Bihar and Orissa state, though the Bill has proved acceptable to the High Court, the Bar Associations and the educated Hindu public, it has been strongly opposed by the public at large especially the orthodox portion which is least vocal. The Governor in Council in view of the recent cases of collision between the orthodox party and the reformers in the Punjab and Bengal, considers it extremely unwise to attempt any legislation on the subject at the present juncture and is further of opinion that legislation should be left to the provincial Councils.

These, Sir, are the views of all the major Local Governments. I neglect the Government of Burma where the question of Hindu religious endowments is of minor importance. We come to the Government of the Central Provinces, and there, I admit, they did favour the Bill. But I would remark that at the time when that opinion was given there were no Ministers in the Central Provinces. There is another important opinion to which I shall refer and that is that of the High Court of Calcutta. The Honourable the Chief Justice and Judges considered that no useful purpose will be served by applying the provisions of the Bill to private trust properties, and they did not see any necessity for the proposed legislation at present. The Calcutta High Court were, of course referring to the Act of 1920 which has been referred to on several occasions to-day. The Government of India are still, Sir, of opinion that further legislation on these lines should not be taken up in the Central Legislature. In our opinion the lines upon which we can legislate in the Central Legislature are indicated in the Act of 1920. The provisions of this Act have been referred to on several occasions to-day and it is unnecessary for me now to refer to them in detail again.

There is one further point to which I think I should refer and that is the suggestion in the recommendation at the end of the Report of the Select Committee, where they suggest that the Government of India should take the initiative to obtain public opinion in the matter and appoint a committee composed of Hindus of the various provinces at an early date to advise them of the measures necessary to provide for trusts of a public character. That is an opinion which as a matter of fact the Government of India have not yet had an opportunity of taking into consideration. It will doubtless receive very careful consideration in due course, but what I should like to point out to the House is the fact that the Act of 1920 was passed as a result of a conference which was attended by many distinguished leaders of Indian opinion. The conference was held in 1914. The war intervened and that was the reason why the Act was not passed till 1920. I will just mention a few of the persons who were members of that conference, namely, Mr. Bhupendra Nath Basu;

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the Honourable Nawab Syed Nawab Ali Chaudhuri, Diwan Bahadur L. A. Govindaraghava Iyer, Diwan Bahadur S. B. M. Ramaswamy Chetty, the Honourable Sir Ibrahim Rahimtoola, the Honourable Sir Gangadhar Chitnavis, and Dr. Deva Prasad Sarvadhikary. That is to say, the Government so long ago as 1914 have taken the action proposed by the Committee. We consider in fact that legislation of a central nature dealing with a subject in which the characteristics of the endowments are so varied as Hindu endowments cannot take a very much more definite form than that of the Act of 1920. Sir, in the opinion of Government legislation on the lines of this Bill should not be undertaken by the Central Legislature. We opposed a reference to a Select Committee on a previous occasion and we must oppose a reference now.

Mr. President: The question is:

“That the Bill to make provision for the better management of Hindu religious and charitable trust property and for ensuring the keeping and publication of proper accounts in respect of such properties, as reported by the Select Committee, be re-committed to a Select Committee consisting of the Honourable the Home Member, Mr. L. Graham, Mr. T. C. Goswami, Pandit Nilakantha Das, Mr. M. A. Jinnah, Diwan Chaman Lal, Mr. N. M. Joshi, Dr. S. K. Datta, Mr. B. Venkatapatiraju, Mr. Jannadas M. Mehta, Lala Lajpat Rai, Mr. B. C. Pal, Mr. Kumar Sankar Ray, Mr. C. S. Ranga Iyer, Sir Darcy Lindsay and the Mover; and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The Assembly divided:

AYES—20.

Abul Kasem, Maulvi.
Aiyangar, Mr. C. Duraiswami.
Alimuzzaman Chowdhry, Khan Bahadur.
Chetty, Mr. R. K. Shanmukham.
Das, Mr. B.
Das, Pandit Nilakantha.
Dutt, Mr. Amar Nath.
Goswami, Mr. T. C.
Gour, Sir Hari Singh.
Iyengar, Mr. A. Rangaswami.

Joshi, Mr. N. M.
Lindsay, Sir Darcy.
Majid Baksh, Syed.
Mehta, Mr. Jannadas M.
Murtuza Sahib Bahadur, Maulvi Sayad.
Nehru, Pandit Shamlal.
Ray, Mr. Kumar Sankar.
Sinha, Mr. Devaki Prasad.
Venkatapatiraju, Mr. B.
Yusuf Imam, Mr. M.

NOES—37.

Acharya Mr. M. K.
Akram Hussain, Prince A. M. M.
Bajpai, Mr. R. S.
Bhore, Mr. J. W.
Blackett, The Honourable Sir Basil.
Bray, Sir Denys.
Burdon, Mr. E.
Calvert, Mr. H.
Clow, Mr. A. G.
Donovan, Mr. J. T.
Ghose, Mr. S. C.
Ghulam Bari, Khan Bahadur.
Gordon, Mr. R. G.
Graham, Mr. L.
Hezlett, Mr. J.
Hira Singh Brar, Sardar Bahadur Captain.
Hudson, Mr. W. F.
Innes, The Honourable Sir Charles.
Jatar, Mr. K. S.

Lloyd, Mr. A. H.
Malaviya, Pandit Madan Mohan.
Mitra, The Honourable Sir Bhupendra Nath.
Muddiman, The Honourable Sir Alexander.
Mutalik, Sardar V. N.
Naidu, Rao Bahadur M. C.
Neave, Mr. E. R.
Owens, Lieut.-Col. F. C.
Rahman, Khan Bahadur A.
Rangachariar, Diwan Bahadur T.
Reddi, Mr. K. Venkataramana.
Sim, Mr. G. G.
Singh, Mr. Gaya Prasad.
Singh, Rai Bahadur S. N.
Talatuley, Mr. S. D.
Tonkinson, Mr. H.
Vernon, Mr. H. A. B.
Vijayaraghavacharyar, Sir Tiruvalangadi.

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Monday, the 22nd February, 1926.