

24 August 1927

# LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

VOLUME IV

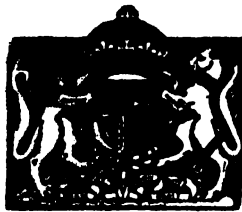
(18th August to 5th September 1927)

## FIRST SESSION

OF THE

## THIRD LEGISLATIVE ASSEMBLY,

### 1927



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# LEGISLATIVE ASSEMBLY.

Wednesday, 24th August, 1927.

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

## QUESTIONS AND ANSWERS.

### PROSECUTIONS IN ORISSA FOR THE ILLICIT MANUFACTURE OF SALT FOR DOMESTIC USE.

168. \*Mr. Gaya Prasad Singh : (a) Is it a fact that sixteen persons of Marichpur, a flood-distressed part of Puri (Orissa) have been fined for illicit manufacture of salt for domestic use ; and for inability to pay the fines, some of the accused are now in jail ?

(b) Are Government aware that in reply to a question in the Bihar and Orissa Legislative Council, on the 21st February last, the Local Government stated that :

“ to meet the situation caused by the general rise in prices during the War, the Government of India agreed in 1918 to instructions being given to the excise authorities in the Districts of Cuttack, Balasore, and Puri to ignore cases of the manufacture of salt on a small scale for domestic use. Owing to distress in those districts, the orders remained in force till 1923. They were revived in 1926 with reference to the Puri District only, and the Local Government are consulting the Government of India on the subject of their remaining in force until the next rains, with effect in the three districts of Cuttack, Balasore and Puri ” ?

(c) In the face of this declaration, will Government kindly explain why proceedings were instituted in this case, and how much manufactured salt was found in the possession of the accused ?

**The Honourable Sir Basil Blackett :** (a) No. 14 persons of village Narahana were find : one of them in default of fine was imprisoned for 15 days.

(b) Yes.

(c) The temporary instructions issued in March 1927 by the Local Government to its officers suggesting leniency in the punishment of the offences of illicitly manufacturing salt in the districts of Balasore, Cuttack and Puri apply only to cases in which the offender is a person suffering from distress owing to the floods and the manufacture is on a small scale only for purely domestic consumption. These criteria are not satisfied in the present case and there was no necessity for lenient treatment. The offenders belong to the village of Narahana. This village was not affected by floods and the accused were not in a distressed condition and when convicted paid their fines promptly with one exception.

20 offenders were detected : 4 were discharged on account of age, 1 was acquitted and 1 absconded. 14 were convicted and received sentences varying from detention till the rising of the court up to a fine of

Rs. 15. The quantity of salt seized was 1 maund 35 seers, but this is believed to be only a portion of the quantity manufactured.

**Mr. Gaya Prasad Singh :** In view of the acute distress prevailing in parts of Orissa on account of the floods, do Government consider it desirable to extend this period of grace ?

**The Honourable Sir Basil Blackett :** I have nothing to add to the long answer I have given.

**Mr. Gaya Prasad Singh :** I am speaking for the future, Sir.

#### PROVINCIAL SHARE OF THE INCOME-TAX ON COMPANIES OPERATING IN BIHAR AND ORISSA BUT REGISTERED ELSEWHERE.

169. **\*Mr. Gaya Prasad Singh :** (a) Has the attention of the Government been drawn to the following remark made by the Honourable Maharaja Bahadur Keshav Prasad Singh, Finance Member, in the Bihar and Orissa Legislative Council on the 25th February last :

“ the provincial share of the income-tax on companies operating in Bihar and Orissa, but registered elsewhere goes not to us but to the Province of registration. Bengal, of their courtesy allow us 85 per cent. of the Provincial share. None of the other Provinces allow us anything. This is a point which we have often pressed and will continue to press upon the Government of India ” ?

(b) Are Government aware that this arrangement operates inequitably for the Province of Bihar and Orissa, and will they kindly state what decision, if any, has been arrived at in this matter ?

**The Honourable Sir Basil Blackett :** (a) The Government of India have now read the statement in the Legislative Council which the Honourable Member has quoted. Since the arrangement between the Governments of Bengal and Bihar and Orissa was arrived at the Government of India have received no further representations on the subject from the Government of Bihar and Orissa.

(b) It is a matter of opinion what basis for the allocation of income-tax with reference to such factors as residence or origin is equitable. The present arrangement is that when a dispute arises between two Provinces in regard to a case of this sort they may refer it to the Government of India for arbitration. The Government are considering the whole question of the assignment of a share of the revenue from Taxes on Income to the Provinces.

#### AMALGAMATION OF THE ORIYA-SPEAKING TRACTS.

170. **\*Mr. Gaya Prasad Singh :** Will Government kindly state what progress, if any, has been made in the scheme for the amalgamation of Oriya-speaking tracts with the Orissa Division ?

**The Honourable Mr. J. Orerar :** The matter is still under the consideration of Government.

#### RECOMMENDATIONS OF THE INDIAN SANDHURST COMMITTEE.

171. **\*Mr. Gaya Prasad Singh :** Do Government propose to give effect to the recommendations of the Indian Sandhurst Committee ? And if so, when ?

**Mr. G. M. Young :** The attention of the Honourable Member is invited to the reply which I gave to Diwan Chaman Lall's question No. 109.

**PERSONNEL OF THE INDIAN DELEGATION TO THE LEAGUE OF NATIONS.**

172. **\*Mr. Gaya Prasad Singh :** Will Government kindly explain why the personnel of the Indian delegation to the League of Nations has been selected without reference to the Central Legislature ?

**Mr. W. T. M. Wright :** I have nothing to add to the reply given to question No. 1778 put by Khan Bahadur Sarfaraz Hussain Khan on the 11th September 1924, to which the Honourable Member was referred in the reply to part (b) of his question No. 244 on the 31st August 1925.

**Mr. R. K. Shanmukham Chetty :** In choosing the leader of the Indian delegation this year for the League of Nations, did the Government of India give consideration to the opinion given expression to in this House and in the other place that the leader should be an Indian ?

**Mr. W. T. M. Wright :** Yes, Sir.

**Mr. R. K. Shanmukham Chetty :** May I know whether Government in their attempt to find a suitable Indian came to the conclusion that they could not find a suitable Indian ?

**Mr. A. Rangaswami Iyengar :** What is the result of that consideration ?

**The Honourable Sir Basil Blackett :** The result of the consideration is the delegation that has been chosen.

**Mr. A. Rangaswami Iyengar :** In other words an Indian was not chosen ?

**Mr. R. K. Shanmukham Chetty :** Was not a suitable Indian available ?

**Pandit Hirday Nath Kunzru :** May I ask Government whether it is correct, as stated by Mr. Sastri, that Sir Muhammad Shafi on behalf of the Government gave Sir P. C. Sethna to understand in 1924 that an Indian was likely to be appointed leader of the delegation that year ?

**The Honourable Sir Basil Blackett :** I am sure that cannot arise out of this question.

**Pandit Hirday Nath Kunzru :** It arises in this way that Government then promised to give consideration to the views of the Assembly and the other House ?

**The Honourable Sir Basil Blackett :** I do not think it does.

**Mr. Gaya Prasad Singh :** May I ask whether it is for the Leader of the House to say whether a question arises out of the main question or not ?

**Mr. President :** The Leader of the House submits it to the Chair.

**APPEALS AND APPLICATIONS FOR REVISION FILED BY INCOME-TAX ASSESSEES IN THE VARIOUS PROVINCES.**

173. **\*Sir Hari Singh Gour :** (1) Will the Government be pleased to lay on the table a comparative statement showing the number of appeals

and applications for revision filed by assesseees to the Income-tax Officers in the various Provinces and the percentages of appeals and applications admitted and rejected ?

(2) Will the Government be pleased to state the variation in the assessment made in the Central Provinces during the last 3 years ?

**The Honourable Sir Basil Blackett :** (1) and (2). The Honourable Member will find the figures that he requires in the All-India Reports and Returns for the years in question.

#### REJECTION BY INCOME-TAX OFFICERS OF THE STATEMENTS MADE BY THE ASSESSEES AS TO THEIR INCOMES.

174. **\*Sir Hari Singh Gour :** Will the Government be pleased to state in how many cases the Income-tax Officer has rejected the statements made by the assessee as to his income and the amount of the income returned and assessed thereafter ?

**The Honourable Sir Basil Blackett :** The Honourable Member is referred to Return No. VIII in the All-India Income-tax Report for 1925-26 which contains all the information that the Government have on the subject. The concluding part of his Question is not understood

#### PERCENTAGE OF COST TO THE INCOME-TAX COLLECTED IN THE CENTRAL PROVINCES.

175. **\*Sir Hari Singh Gour :** (1) Will the Government be pleased to state the percentage of collecting charges in the Central Provinces upon the income-tax realised ?

**The Honourable Sir Basil Blackett :** The percentage of cost to tax collected in the year 1925-26 in the Central Provinces and Berar was 9.75 per cent.

#### EMPLOYMENT OF INFORMERS AND SECRET AGENTS BY THE INCOME-TAX DEPARTMENT.

176. **\*Sir Hari Singh Gour :** (1) Will the Government be pleased to state whether the Income-tax Department employ any informers and secret agents and whether they have issued any specific instructions to such informers and secret agents to report the income of the people liable to assessment ?

(2) If so, will Government be pleased to state in what percentage of cases the Income-tax Officers in the Central Provinces have assessed persons to income-tax upon this information ?

**The Honourable Sir Basil Blackett :** The Government do not employ such informers or secret agents as are suggested in part (1) of the question. Part (2) does not arise.

#### ALLEGED EXACTIONS OF INCOME-TAX OFFICERS IN THE CENTRAL PROVINCES.

177. **\*Sir Hari Singh Gour :** Are the Government aware that there is a widespread discontent in the Central Provinces on account of the exactions of the Income-tax Officers ?

**The Honourable Sir Basil Blackett :** The Honourable Member has acquainted me with at least one individual case of discontent. Nonetheless I think I am right in replying that the answer is in the negative.

**Mr. Gaya Prasad Singh :** Are Government aware that there is discontent in the Province of Bihar and Orissa also with regard to the exactions of Income-tax Officers ?

**REPORT OF THE INDIAN AUXILIARY AND TERRITORIAL FORCES COMMITTEE.**

178. **\*Mr. K. C. Roy :** Will the Government be pleased to state whether any decision has been reached by the Secretary of State for India on the Shea Report regarding the Auxiliary and Territorial Forces in India, and if the answer is in the affirmative to place a copy of the order on the table of the House ?

**Mr. G. M. Young :** The Honourable Member is referred to the Resolution published in the Gazette of India on Saturday, the 20th August.

**NUMBER OF INDIAN RESIDENTS IN CHINA.**

179. **\*Mr. N. C. Kelkar :** Will Government state approximately :

- (1) the total number of Indian residents at present in the whole of China ?
- (2) the total number of Indian residents in Shanghai, Canton and Hong-Kong ?
- (3) the total amount of Indian trade with China, both export and import during the year 1926-27 ?

**Sir Denys Bray :** (1) If reliance can be placed on a rough estimate made a couple of years ago, the total is in the neighbourhood of 5,000.

(2) 1,400 in Shanghai, 90 in Canton, 1,152 in Hongkong.

(3) Trade with China excluding Hongkong, over 14½ crores ; trade with Hongkong just under 4 crores.

**PAY OF INCOME-TAX OFFICERS, EXAMINERS, ETC., IN THE DIFFERENT PROVINCES.**

180. **\*Mr. N. C. Kelkar :** (a) Are there different scales of pay for the I. T. O.'s, Examiners, Assistant Examiners, Inspectors and Sub-Inspectors of Income-tax in the different Presidencies ?

(b) What is the scale of pay in each Province ?

(c) If there is any difference in pay, what is such difference due to ?

**The Honourable Sir Basil Blackett :** (a) The scales are not identical in all Provinces.

(b) A statement giving the information desired is laid on the table.

(c) The scales have been fixed at different times with reference to local conditions and to the scales fixed by the different Local Governments for their own establishments.

\* Statement showing the scales of pay of Income-tax Officers, Examiners, Accountants, Inspectors, etc., in the various provinces.

Province.	Income-tax Officers and Assistant Income-tax Officers.	Examiners or Accountants.	Inspectors, Surveyors or Assessors.
Madras	300—40—500—50—800 Ra.	Accountants 100—10—250 110—10—260 Ra.	Surveyors .. 150—5—300—10—300 Ra.
Bombay	Senior 1,000—100—1,500 300—50/2—900	Chief Examiners 550—35—700 Examiners .. 225—25/2—500 175—25/2—325 Asstt. Exrs. .. 150—15—325 115—5—150	Inspectors .. 200—25/2—500 150—25/2—325 Sub-Inspectors 150—15—325 115—5—150
Bengal	500—50/2—900	Examiners Selection 175—25/2—450 500	Assessors .. 125—5—150—10—300
United Provinces	350—30—800—25—900 Asstt. I.T. Os. 250—25—350	.....	.....
Punjab	Asstt. I.T. Os. 300—40—850 250—25—350	.....	Inspectors .. 20—7 1/2—240
Burma..	Asstt. I.T. Os. 350—25—750—50—950 250—25—350	Examiners 200—15—500	Inspectors 200—10—300—25/4—325
Bihar and Orissa	Asstt. I.T. Os. 350—50/2—900 250—25—350	.....	.....
Central Provinces	300—25—550—50—900	Examiners 175—25/2—275	Inspectors .. 80—100—10/2—150



**PAY OF INCOME-TAX OFFICERS, EXAMINERS AND INSPECTORS IN BOMBAY AND THE MOFUSSIL.**

181. **\*Mr. N. C. Kelkar** : (a) What are the reasons that necessitate a higher pay for I. T. Os., Examiners and Inspectors in Bombay than what the same officers get in the mofussil, apart from the fact that living in Bombay is dear ?

(b) Have the Government considered the question of having one common time scale of pay for all the Examiners and Inspectors, granting compensatory or local allowance to the Bombay officers ?

**The Honourable Sir Basil Blackett** : (a) and (b). The arrangement dates from the time when the Income-tax Department was under the control of the Local Government, and was presumably modelled on the system by which the pay of other establishments under the Local Government was regulated. The Government are not prepared to express an opinion as to the suitability of the alternative suggested by the Honourable Member without enquiry but they will examine it. I may however mention that with one exception, Income-tax Officers draw the same rate of pay in Bombay and in the mofussil, the officers in Bombay drawing a compensatory allowance.

**SELECTION OF BRAHMINS AND MAHRATTAS FROM THE BOMBAY PRESIDENCY FOR MILITARY TRAINING.**

182. **\*Mr. N. C. Kelkar** : Will Government be pleased to state :

(a) what is the total strength of the students in the University Training Corps in the Bombay Presidency ? How many of them are Brahmmins and how many Mahrattas ? What was the strength in the Indian Defence Force in the same Presidency ? How many of them are Brahmmins and how many Mahrattas ?

(b) How many Brahmmins and how many Mahrattas were selected during the last five years from the Bombay Presidency for military training, whether at Sandhurst or elsewhere ?

**Mr. G. M. Young** : (a) On the 1st July 1927, the Bombay Battalion, University Training Corps, had an actual enrolled strength of 618 out of a sanctioned establishment of 27 officers and 637 other ranks. The Bombay University companies, Indian Branch of the late Indian Defence Force, had an actual enrolled strength in June 1918 of 485 out of a sanctioned establishment of 8 officers and 492 other ranks.

As regards the composition of the University Corps, the Honourable Member is referred to the reply I gave on the 15th March last to starred question No. 964.

(b) Three Mahratta boys have entered the Dehra Dun College during the last five years. One of them went on to Sandhurst. Two Mahratta and two Brahmin boys from the Bombay Presidency, who had not been to Dehra Dun, entered Sandhurst during the same period.

**DISBANDMENT OF THE SPECIAL COMPANY OF MAHRATTA BRAHMINS RAISED DURING THE GREAT WAR.**

183. \***Mr. N. C. Kelkar** : (a) Is it a fact that the special Brahmin Company that was established during the Great War, was raised as a permanent measure ? If yes, why is it disbanded ?

(b) What was the opinion submitted by the Adjutant General in 1918 (March-April) about this special Brahmin Company after inspection of the same ? Will Government place the same on the Assembly table ?

(c) Have Government seen the statement in the Ratnagiri District Gazetteer that Mahratta Brahmins were fine soldiers and that there was a Mahratta Brahmin platoon. When was that platoon established ? When was it disbanded and why ?

**Mr. G. M. Young** : (a) The Special company of Mahratta Brahmins was not raised as a permanent measure, but as a war measure. It was disbanded at the end of the war.

(b) There is no record of an inspection by the Adjutant General in India in March or April, 1918. Reports about this unit were however received from the local military authorities and are on record

(c) I cannot trace the statement quoted by the Honourable Member. The only Mahratta Brahmin unit that I know of was the company to which I have just referred.

**ADMISSION OF MAHARS TO OTHER PLATOONS, CONSEQUENT ON THE DISBANDMENT OF THE MAHAR BATTALION.**

184. \***Mr. N. C. Kelkar** : (a) What was the number of the Mahars in the Mahar Battalion established during the Great War ?

(b) Is it a fact that when the Mahar Battalion was closed, the Mahars were promised posts in other platoons ?

(c) If yes, in which platoons were the Mahars admitted ? What was the number when they were disbanded, and what is the number that was re-admitted ?

**Mr. G. M. Young** : (a) The Mahar Battalion was raised in 1917 and disbanded in 1922. The number of Mahars serving in the Battalion on the 1st of January 1918 was 963 and on the 1st of January 1922, 764.

(b) Yes, some posts were made available.

(c) Two platoons of Mahars were allotted as Machine Gun Platoons with British Infantry battalions, but as recruiting proved unsatisfactory, these two platoons had to be filled by other classes. No Mahars have been readmitted

**COMMUNAL REPRESENTATION IN THE PUBLIC SERVICES UNDER THE GOVERNMENTS OF MADRAS, BOMBAY AND THE UNITED PROVINCES.**

185. \***Mr. N. C. Kelkar** : Are Government aware that whilst the Bombay and Madras Governments have fixed the percentage according to which different communities are to be admitted in Government service, the United Provinces Government declare such admission in service on a communal basis is against the Queen's proclamation ? Which of the two courses has been approved by the Government of India ?

**The Honourable Mr. J. Orerar :** I have ascertained that the Government of the United Provinces have made no such declaration as is suggested. The Government of India have already announced their policy in the matter, which is directed to preventing any undue preponderance of particular communities in the services and establishments under their control.

**RATE OF EXCHANGE, AND SALE AND PURCHASE OF GOLD, ETC.**

186. **\*Mr. N. C. Kelkar :** Will Government lay on the table a statement showing the following for the period of time since the passing of the Currency Act IV of 1927 :

- (1) the average rate of exchange in the market,
- (2) the amount of gold bullion sold by Government for exchange in England and other gold standard countries, and for other purposes, under section 5 of Act IV of 1927,
- (3) the amount of gold purchased by Government under section 5 of Act IV of 1927,
- (4) the amount of currency contracted by cancellation of notes or otherwise,
- (5) the amount of gold purchased in England by the Secretary of State for India on behalf of the Government of India,
- (6) the amount of gold released directly by Government of India on their own account to the Secretary of State for India, or the Bank of England or any other Bank for the State Secretary,
- (7) the amount of Council Bills drawn by Secretary of State for India on India ?

**The Honourable Sir Basil Blackett :** (1) The average rate of exchange for telegraphic transfers from Calcutta on London during the period from 1st April 1927 to 31st July 1927 was 1 shilling 57/8 pence per rupee.

(2), (3) and (6). Nil.

(4) The note circulation on the 31st July 1927 was 6,50 lakhs lower than on the 31st March 1927.

(5) 99,394 fine ounces equivalent of £423,000 were purchased for the Gold Standard Reserve.

(7) Nil. But sterling was purchased in India to the extent of £5,268,000 from 1st April 1927 to the 31st July 1927.

**TAX ON EUROPEANS AND ASIATICS IN KENYA FOR EDUCATIONAL PURPOSES.**

187. **\*Mr. N. C. Kelkar :** (a) With reference to my question No. 10 answered on 27th January 1927 during the Delhi Session, has the attention of Government been drawn to the statement of Mr. D. B. Desai of Broach, published in the *Times of India*, page 10, column 6, dated the 6th April 1927, on the subject of the tax on Europeans and the tax on Indians or Asiatics levied in Kenya ?

(b) Have Government made any representations to the Kenya Government on the subject? If so, will Government place on the table a copy of the same? If they have made no representation, do they propose to make one to point out the inequitable method of taxation as between Europeans and Indian residents of Kenya?

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

(b) The only fresh development brought to light in the communication referred to by the Honourable Member is the acceptance by the Kenya Government of a motion to appoint a committee of the Legislative Council to consider some more equitable method of taxation in connection with the European Education Cess. As the Honourable Member is probably aware, when these Ordinances were being considered in the Kenya Legislative Council, it was explained, on behalf of the Colonial Government, with reference to the Asiatic poll-tax, that, while this would be in force in 1927, it might be modified later by alternative proposals if reasonable ones could be submitted. It is, therefore, open to the Indian Members of the Legislative Council to take steps to submit alternatives in the same manner as their European colleagues have done. The Government of India have made inquiries as to whether any move in this direction by the Indian Members of Council has either already been made or is contemplated. They regret that this correspondence, which is still proceeding, cannot now be made public.

#### SEGREGATION OF INDIAN RESIDENTS OF MOMBASA.

188. **\*Mr. N. C. Kelkar :** (a) Has the attention of Government been drawn to the grievance of segregation of Indian residents of Mombasa, as reported in the *Times of India*, dated the 8th April, page 10, column 7?

(b) Will Government state the full facts about the position as they understand them?

(c) Have Government received any representation from the East African Indian National Congress on this subject? If so will Government disclose to this House the reply given to the representation?

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

(b) The Honourable Member is referred to the reply given by me to part (c) of Mr. Gaya Prasad Singh's question No. 55 on the 22nd August.

(c) A representation which deals with this matter among others was received from the East African Indian National Congress on the 8th August and is under consideration.

#### RETURN TO INDIA OF DR. AND MRS. TARAKNATH DAS.

189. **\*Mr. N. C. Kelkar :** Have the Government of India any charges against Dr. Taraknath Das which may prevent his returning to India? Are the Government of India prepared to *visa* his papers to enable him and his wife to visit his relatives in India?

**The Honourable Mr. J. Orerar :** Government will take these questions into consideration in the event of Dr. Taraknath Das applying for facilities to return to India. They have so far received no application of this character.

REDUCTION OF STORES BALANCES (RAILWAYS).

190. \*Mr. N. C. Kelkar : With reference to paragraph 44 of the Explanatory Memorandum of the Railway Budget for 1927-28, will Government give details of the reduction of stores balances amounting to Rs. 32 lakhs obtained by miscellaneous adjustments ?

Mr. A. A. L. Parsons : The miscellaneous adjustments referred to represent the difference between the balances at the beginning and end of the year of certain heads of accounts which, under our existing system of accounting, are maintained as sub-heads of the General Stores Suspense Account. The details are as follows :

(a) Purchases account ..	7 lakhs.
(b) Sales account .. ..	9 lakhs.
(c) Workshop Suspense account	12 lakhs.
(d) Manufacture Suspense account .. ..	4 lakhs.

The question whether the existing procedure should be revised will be examined when the recommendations in Sir Arthur Dickinson's Report are considered.

OMISSION OF THE SOR COLLIERY FROM THE STATEMENT OF RAILWAY COLLIERIES ACQUIRED FROM TIME TO TIME.

191. \*Mr. N. C. Kelkar : With reference to the statement at page 151 of the Legislative Assembly Debates, Volume IX, showing the railway collieries acquired from time to time with their capital cost up to 31st March 1925, will Government state why the Sor colliery is omitted from the statement ? Have any other collieries been similarly omitted ? What is the original cost of the Sor colliery ?

Mr. A. A. L. Parsons : The Sor colliery was omitted as it was never used for the regular supply of coal for Railways.

No other collieries have been similarly omitted.

The original cost of the Sor colliery was about Rs. 20½ lakhs. For full information regarding this colliery I would refer the Honourable Member to the reply given by Mr. Sim to Mr. K. G. Lohokare's question No. 792 on the 15th February 1926.

HAULAGE CHARGES FOR POSTAL VANS.

192. \*Mr. N. C. Kelkar : With reference to page 29 of the Railway Administration Report for 1913-14, will Government kindly lay on the table a statement showing the haulage charges for postal vans then in force and the increased haulage charges now in force ?

Mr. A. A. L. Parsons : Prior to 1st April 1913 the haulage charges were 18 pies per mile per four-wheeled vehicle on railways of all gauges. On the 1st April 1913 they were raised to 24 pies per mile on broad gauge railways, and they are now 36 pies per mile on broad gauge railways, and 24 pies per mile on metre and other gauge railways.

### INTRODUCTION OF ALL-STEEL COACHES ON THE SOUTH INDIAN RAILWAY.

193. \***Mr. N. C. Kelkar** : Is it a fact that the South Indian Railway Company are averse to the introduction of all-steel coaches on the South Indian Railway ? If so, will Government lay on the table a copy of their objections ?

**Mr. A. A. L. Parsons** : In 1914 the South Indian Railway obtained one steel coach for experimental purposes at a cost of about Rs. 3,000 in excess of that of a third class coach of normal construction. In 1923, without expressing any definite aversion to all steel coaches in general, and in reply to a request for information on the subject, the Agent informed the Railway Board that the main disadvantages of the steel coach were, first, that the unloaded weight exceeded that of a wooden-body vehicle on a standard underframe by 3 tons, and secondly that especially in areas such as those traversed by the South Indian Railway, where the humidity is high, the steel is subject to corrosion.

### COST OF THE ESTABLISHMENT OF THE MINING ENGINEER (RAILWAYS).

194. \***Mr. N. C. Kelkar** : With reference to page 6 of the proceedings of the Standing Finance Committee for Railways, Volume II, No. 6, will Government state whether the question of the distribution or the cost of the establishment of the Mining Engineer has been discussed with Sir Arthur Dickinson ; and if so, what is the decision arrived at ?

**Mr. A. A. L. Parsons** : The matter was mentioned to Sir Arthur Dickinson at an informal discussion and in the official terms of reference he has been asked to report and make recommendations on the system of accounting for the expenditure and outturn of railway collieries with detailed proposals for the pricing of their output. Government do not propose to take any action in the matter until Sir Arthur Dickinson's report is received.

### REPORTS OF THE COMMITTEE APPOINTED TO INQUIRE INTO THE WORKING OF THE STAFF SELECTION BOARD.

195. \***Mr. N. C. Kelkar** : Will Government kindly place in the Library of the Assembly a copy of the Report of the Staff Selection Board Committee ?

**The Honourable Mr. J. Crerar** : Copies of the preliminary and final reports of the Staff Selection Board Committee of 1922-23, to which I assume that the Honourable Member refers, have been placed in the Library.

### COST OF ALTERING THE EXISTING FIXED STRUCTURES ON THE 5'-6" GAUGE RAILWAYS.

196. \***Mr. N. C. Kelkar** : With reference to paragraph 68 of the Railway Administration Report for 1922-23, will Government kindly state whether the Railway Board have yet completed the investigation into the cost of altering the existing fixed structures on the 5'-6" gauge railways, so as to permit of the use of engines and rolling stock with increased width and height ; and if so what is the total cost of the alterations and what is the plan adopted for carrying them out ?

**Mr. A. A. L. Parsons :** The investigation is by no means completed. It is first of all necessary to decide the design, and particularly the width and height of rolling stock which it would be economical to adopt for future use, and the Railway Board are at present engaged on this problem. Until it has been settled it is impossible to say what alterations will be necessary to permanent structures, more especially platforms, on the various Railways, or to give any estimate of the cost of such alterations which would have the slightest pretension to accuracy. The cost of necessary alterations will of course be a most material factor in deciding whether to introduce new designs of rolling stock. If the Honourable Member desires more detailed information on the subject, which it is impossible to give within the limits of a reply to a question, I shall be very glad to supply it to him if he will see me in my office.

**ABOLITION OF THE PROVINCIAL SERVICES ON RAILWAYS.**

197. **\*Mr. N. C. Kelkar :** With reference to the answer given on 8th March 1926, to starred question No. 1097, will Government kindly state what decision has been arrived at on the question of the abolition of the provincial services on Railways ?

**Mr. A. A. L. Parsons :** The matter is still under consideration. As it involves some intricate questions of reorganisation of the railway services, it is likely to take a considerable time to settle.

**SLEEPING ACCOMMODATION FOR INTERMEDIATE AND THIRD CLASS PASSENGERS ON RAILWAYS.**

198. **\*Mr. N. C. Kelkar :** With reference to the statement occurring in the answer given on 27th January 1927 to starred question No. 6, that "seating accommodation is provided for intermediate and third class passengers, while sleeping accommodation is provided for first and second class", will Government state the ground for this differentiation ?

**Mr. A. A. L. Parsons :** The intermediate and third class fares charged would not cover the cost of lying down accommodation.

**RESERVATION OF FIRST AND SECOND CLASS COMPARTMENTS FROM HOWRAH TO STATIONS ON THE EAST INDIAN RAILWAY.**

199. **\*Mr. N. C. Kelkar :** With reference to the answer given on 27th January to starred question No. 5, relating to the experiment of reservation from Howrah to stations on the East Indian Railway of first and second class compartments on payment of one fare less than the marked sleeping capacity, have Government obtained from the Agent, East Indian Railway, any report showing whether this experiment has succeeded in increasing the railway earnings; and if so, will they lay a copy of it on the table ?

**Mr. A. A. L. Parsons :** A report from the East Indian Railway received in August last year showed that the average number of reservations per mensem had been as follows :

First class	..	..	..	..	3
Second class	..	..	..	..	12

No further report has been received and, as the matter is within the competence of the Agent, no further report is being called for.

### EDUCATIONAL FACILITIES FOR THE CHILDREN OF RAILWAY EMPLOYEES.

200. \***Mr. N. C. Kelkar** : With reference to the answer given on 28th March 1927 to starred question No. 1273, relating to the deputation of Mr. C. E. W. Jones, C.I.E., of the Indian Educational Service, will Government kindly state what efforts, if any, were made to obtain a loan of the services of an Indian for the investigation of the question of educational facilities for the children of railway employees ?

**Mr. A. A. L. Parsons** : The Railway Board asked the Educational Commissioner to suggest the name of a suitable officer, and on his advice asked the Government of the Central Provinces for Mr. Jones' services. No racial considerations arose.

### SURPLUS LOCOMOTIVES ON THE NORTH WESTERN RAILWAY AND OTHER RAILWAYS.

201. \***Mr. N. C. Kelkar** : With reference to pages 2912-3 of the Legislative Assembly Debates, Vol. IX, will Government :

- (a) indicate the extent to which the North Western Railway is still overstocked in respect of locomotives ; and
- (b) state what other railways have been found to have excess of locomotives owing to improved methods of working ?

**Mr. A. A. L. Parsons** : (a) The stock of locomotives on the North-Western Railway at the end of June 1927 was, according to the latest information in the possession of Government, 1,345 ; while the latest examination by the Railway Board made about a month ago, I think, Sir, shows that 1,328 locomotives should probably be sufficient for the traffic which, on present indications, may be expected in 1928-29. These figures show that the Railway is no longer overstocked, if it is overstocked at all.

(b) Judged by the latest figures—those for May 1927—no Railways are, according to the criteria imposed by the Railway Board, overstocked with locomotives for the haulage of the present volume of traffic ; but to prevent any future misunderstanding I should like to explain the position on the Great Indian Peninsula Railway. On this Railway the improvement in methods of working has been very marked, and an extension of electrification is proceeding. As a result it is hoped that it will be possible to scrap this year, and next, between 90 and 100 locomotives of obsolete types not suitable for conversion to superheat, which would otherwise have to be replaced. I should further explain that it is never possible to place a precise figure on the number of locomotives required by a railway on any specific date ; the requirements depend on a number of constantly varying factors, of which the two most important are the possibility of improved methods of working, leading to a smaller number of locomotives being required for a similar volume of traffic, and the possibility of a development of traffic leading to a growth of locomotive requirements. Consequently it should not be assumed that because there is no evidence that the stock of locomotives is at present in excess of the requirements, excesses will not on occasion arise from the operation of the causes I have mentioned, enabling railways to scrap without replacement locomotives which would otherwise have to be replaced. For the same reasons during



the slack season, when experience shows that the volume of traffic in India may be as much as 30 or 40 per cent. below that of the busy season, there is likely to be an excess of tractive power on most of the Indian Railways.

**STIPULATION IN RAILWAY CONTRACTS GIVEN TO FIRMS AS REGARDS THE EMPLOYMENT OF INDIANS ON THE WORKS IN QUESTION.**

202. \***Mr. N. C. Kelkar** : Will Government state whether in the contracts given to firms for important railway works any stipulation is made as regards the employment of Indians on the works in question ?

**Mr. A. A. L. Parsons** : The answer is in the negative.

**CONSTRUCTION OF CHEAPER AGRICULTURAL LINES OF RAILWAY.**

203. \***Mr. N. C. Kelkar** : With reference to the construction of cheaper agricultural lines of railway, will Government state the normal life fixed for the different classes of wasting assets for the purpose of ascertaining the payments to be made into the Depreciation Fund ?

**Mr. A. A. L. Parsons** : The Honourable Member will find the information that he requires in Appendix D to the Report by the Railway Board on Indian Railways for 1924-25, Volume I, a copy of which is in the Library.

**NAMES OF FIRMS ENTRUSTED WITH IMPORTANT RAILWAY WORKS.**

204. \***Mr. N. C. Kelkar** : With reference to paragraph 11 of the speech of the Railway Member introducing the Railway Budget for 1927-28, will Government lay on the table a statement showing the names of the firms of contractors entrusted with important railway works, the description of the works so entrusted and the works for which tenders were called for ?

**Mr. A. A. L. Parsons** : A statement giving the information asked for is laid on the table.



Statement showing important railway works entrusted to contractors.

Serial No.	Contracting firms.	Name of work.	Railway Administration.	Whether tenders were called for or not.
1	Braithwaite and Company (Engineers), Limited.	Villupuram-Trichinopoly Railway 8 Screw pile bridges.	South Indian Railway ..	No.
2	Ditto ..	Freelandganj Loco. Shops Erecting Unit and Yard Gantry.	Bombay, Baroda and Central India Railway.	Yes.
3	Ditto ..	Reconstruction of Nerbudda Bridge ..	Great Indian Peninsula Railway ..	No.
4	Ditto ..	Reconstruction of Sher and Anjan Bridges.	Ditto ..	Yes.
5	Sections I and II, Messrs. The Tata Construction Company, Section No. III, Messrs. Dattoo Narayan and Brothers.	Bhoro Ghat Re-alignment Scheme ..	Ditto ..	Yes.
6	Messrs. Mackenzie and Company ..	Lyallpur-Jaranwala Railway (construction).	North Western Railway ..	Yes.
7	Messrs. Mackenzie and Company, Contractors, Bombay.	Road overbridge at Mahalashmi, exclusive of the steel girders.	Bombay, Baroda and Central India Railway.	Yes.

**NUMBER OF PASSENGERS DETECTED TRAVELLING WITHOUT TICKETS ON RAILWAYS DURING 1925-26.**

205. \***Mr. N. C. Kelkar** : Will Government lay on the table a statement showing by classes (first, second, intermediate and third) the number of passengers detected travelling without tickets and the amounts collected from them during the year 1925-26 ?

**Mr. A. A. L. Parsons** : Information has been called for from the Railways, and a statement will be furnished to the Honourable Member when it is received.

**ALLOCATION OF EXPENDITURE BETWEEN PASSENGER AND GOODS WORKING.**

206. \***Mr. N. C. Kelkar** : With reference to the answer given on 27th January 1927 to starred question No. 8, will Government state whether the question of allocation of expenditure between passenger and goods working has since been looked into ; and, if so, what is the decision arrived at ?

**Mr. A. A. L. Parsons** : We have just received the report of the officer deputed to examine American methods, and shall look into the question as quickly as possible as soon as the report is ready in print.

**CATERING BY MESSRS. BRANDON AND COMPANY ON THE GREAT INDIAN PENINSULA RAILWAY.**

207. \***Mr. N. C. Kelkar** : (a) Is it a fact that Brandon and Company is in charge of about twenty refreshment rooms on different railway stations on the Great Indian Peninsula Railway, catering for both European and Indian customers ?

(b) What is the period during which Brandon and Company has been thus favoured with their choice by the Great Indian Peninsula Railway ?

(c) Is it a fact that Brandon and Company are given a monopoly of dining cars and ice and aerated waters on the whole of the Great Indian Peninsula Railway line, and, if so, for how many years ?

(d) What are the terms and conditions on which this allotment of refreshment rooms and the grant of monopoly of dining cars, etc., is made to this Company ?

**RULES REGARDING CATERING ON RAILWAYS.**

208. \***Mr. N. C. Kelkar** : (a) Is it a fact that in 1924-25, new rules were enacted, providing that not more than one refreshment stall should be given to any single contractor ?

(b) Will Government state whether these rules cover the case of Brandon & Co., or whether it is governed by any other set of rules ? If so, will Government place a copy of those rules on the table ?

**CATERING ARRANGEMENTS ON THE GREAT INDIAN PENINSULA RAILWAY.**

209 \***Mr. N. C. Kelkar** : (a) Is it a fact that it is the intention of the railway companies to give Hindu refreshment stalls to Hindus and Muhammadan stalls to Muhammadan contractors ?

(b) Is it a fact that the refreshment rooms at Dhond, Kurudwadi and Ahmednagar, intended to cater for Hindus as well as Muhammadans, are given to a Parsee contractor? Will Government state whether any applications from local Hindu or Muhammadan contractors were received offering to take up these stalls?

(c) Will Government state the number of old contractors who have been allowed to continue their stalls and the number of new contractors who have displaced old ones on the Great Indian Peninsula Railway?

(d) Is it a fact that some of the new contractors have been fined during the last year or two owing to their inefficiency?

**Mr. A. A. L. Parsons :** With your permission, Sir, I should like to reply to questions Nos. 207 to 209 together. I would refer the Honourable Member to the replies given to the questions asked by him on the 3rd February 1925 and by the late Dr. Lohokare on the 19th August 1926. Government have no information on the subject which is one which they leave to Agents to deal with. But if there is any ground for thinking that present arrangements are unsatisfactory, the matter is one which the Local Advisory Committee might well ask the Agent to discuss with them. It was, I understand, discussed with them when new rules were framed rather over two years ago.

#### SUPPLY OF RAW HIDES TO THE CAWNPORE HARNESS FACTORY.

210. **\*Mr. T. A. K. Shervani :** 1. Is it a fact that in previous years the raw hides in the Cawnpore Harness Factory used to be supplied by means of lowest tenders on lime weights rates?

2. Will the Government be pleased to state if this system is abolished from the last two years?

3. If so, (a) Why?

(b) In whose favour?

(c) On what terms?

(d) On whose risk?

and (e) For what period?

4. Will the Government be pleased to state if the supply of hides under the new system guarantees good quality and weight and is in accordance with the schedule, and are the hides supplied at the risk of the Harness Factory?

5. Do the Government intend to stick to the new system after the expiry of the term or to revert to the old system?

6. If the answer to question No. 5 is in the affirmative, will the Government be pleased to lay all the papers and reports concerning the matter on the table to enable the House to appreciate the advantages of the new system in comparison with the old one?

7. Is it a fact that the Government have entered into an agreement with the British India Corporation, Ltd., to buy through one Mr. Corbett on a commission basis, at the open market rate with all the risk of lime rejections and market fluctuations?

8. Is it not a fact that under the new system full scheduled quantity has never been delivered?

**Mr. G. M. Young** : Parts 1—7. I have nothing to add to the answer which I gave on the 26th March to the Honourable Member's starred question No. 1226, except that the Audit Report on the accounts for the year 1926-27 shows the results of the joint purchase system to be satisfactory. The actual cost of hides to Government is less than that paid under the old tender system.

Part 8. The answer is in the negative.

**INSTALLATION BY THE MADRAS AND SOUTHERN MAHRATTA RAILWAY OF A PUMPING STATION AT THE RIVER PALAR.**

211. **\*Mr. C. Duraiswamy Aiyangar** : 1. Is it a fact that the Madras and Southern Mahratta Railway Company has been trying to instal a pumping station at the river Palar for supplying water to Jolarpet station ?

2. Are Government aware that the agriculturists have been protesting against the installation in various ways ?

3. Are Government aware of the memorials submitted by the agriculturists as also of the deputation to the Local Government led by the Members of the Madras Legislative Council representing the district of North Arcot ?

4. Will the Government be pleased to state what redress has been accorded to the agriculturists who have been expressing their grievances ?

5. Is it a fact that now proceedings under the Land Acquisition Act have been commenced to acquire a piece of zemindari land for the pumping station without heeding the complaints of the zemindari ryots ?

**Mr. A. A. L. Parsons** : (1) Yes.

(2) & (3). Yes.

(4) A number of sites were investigated in consultation with the Public Works and revenue authorities. The site finally chosen has been carefully selected and it is considered that it will not affect agricultural interests.

(5) Land acquisition proceedings have commenced after carefully considering the objections which were known to have been made.

212.†

**APPOINTMENT OF A EUROPEAN AS JUNIOR INSPECTOR OF MINES.**

213. **\*Mr. K. G. Neogy** : (a) Will Government be pleased to state if a post of Junior Inspector of Mines was advertised in this country last year ?

(b) If so, how were the applications dealt with and the appointment eventually made ?

(c) Is it a fact that a British candidate who had no previous experience of Indian mines was recruited in England for the post ?

† Not put as the Honourable Member (Sardar Gulab Singh) had not taken the oath of office.

(d) If the reply to (c) is in the affirmative, will the Government be pleased to state what opportunities the Public Service Commission or any other authority in India had of examining the candidate personally ?

(e) How many Indian applicants were there for the post ? How many of them were interviewed by the Public Service Commission or any other authority in India ? On what grounds were the candidatures of all the Indian applicants rejected ?

**The Honourable Sir Bhupendra Nath Mitra :** (a) Yes.

(b) The applications received in this country were considered by the Public Service Commission. The vacancy was also advertised in England by the High Commissioner for India and the applications received there were considered by a Selection Committee under the presidency of the High Commissioner. One of the candidates recommended by the Selection Committee in England was appointed.

(c) Yes.

(d) It is not the function of the Public Service Commission to interview candidates for a post which is to be filled by selection in England. The candidates were interviewed by the Committee appointed by the High Commissioner, which included the Chief Inspector of Mines.

(e) 30 persons, of whom about two-thirds were Indians applied in India. Five candidates who were considered by the Public Service Commission as likely to be suitable and who were all Indians, were interviewed by the Commission. The candidates were rejected because the Commission considered that none of them was suitable for appointment.

**Mr. N. M. Joshi :** May I ask if the Public Service Commission has a majority of Europeans as members ?

**The Honourable Sir Bhupendra Nath Mitra :** The Honourable Member knows full well what the constitution of the Public Service Commission is.

**Mr. K. C. Neogy :** Has the Honourable Member satisfied himself that the standard of qualification which was laid down by the Selection Committee in England was the same as that laid down by the Public Service Commission ?

**The Honourable Sir Bhupendra Nath Mitra :** The standard of qualification was the same, Sir.

#### TERMINAL CHARGE ON COKE AND PATENT FUEL ARRIVING IN CALCUTTA.

214. **Mr. K. C. Neogy :** (a) Is it a fact a reduction of as. 4-6 per ton was effected in June this year in the terminal charge levied on all railway consignments of coke and patent fuel arriving in Calcutta stations ?

(b) Is it a fact that an additional terminal of as. 4-6 per ton on coke and patent fuel traffic arriving in Calcutta, over and above the terminals which all coal traffic is generally subject to, have been in force for a number of years ?

(c) If the reply to (b) be in the affirmative, will Government state when this additional terminal was first imposed and with what object in view ?

**Mr. A. A. L. Parsons :** (a) and (b). Yes.

(c) I would refer the Honourable Member to the reply given to question No. 172 asked by Kumar Ganganand Sinha in this Assembly on the 1st February 1927.

The Howrah Bridge toll was imposed under the Howrah Bridge Act of 1871 which came into force on the 5th July 1871.

**BALANCE SHEETS OF RAILWAY-OWNED COLLIERIES, ETC.**

215. **\*Mr. K. C. Neogy :** (a) When are the balance sheets of railway-owned collieries expected to be prepared on commercial principles ?

(b) Will Government be pleased to lay on the table a chemical analysis of the average sample of coal mines in various railway collieries developed since 1919 ?

(c) Will Government be pleased to furnish a statement showing the rates at which surface rent and royalty are paid on account of the railway collieries opened since 1919, and the names of the parties to whom such rent and royalty are payable, stating in the latter case the exact nature of interest of the parties in their respective land or minerals ?

**Mr. A. A. L. Parsons :** (a) The form of accounts to be adopted for railway-owned collieries was discussed with Sir Arthur Dickinson and will be settled on receipt of his report. I hope it will be possible to introduce any changes needed by the beginning of next financial year.

(b) and (c). I am sending the Honourable Member the information he requires.

**SCHEME OF THE INDIAN MINING FEDERATION OF CALCUTTA FOR POPULARISING THE USE OF COAL AS A DOMESTIC FUEL.**

216. **\*Mr. K. C. Neogy :** Did Government receive from the Indian Mining Federation of Calcutta a representation outlining a scheme for popularising the use of coal as a domestic fuel ? If so, will Government state what action they propose to take on the proposal ?

**The Honourable Sir George Rainy :** Yes. The proposal is under consideration.

**REDUCTION OF RAILWAY FREIGHT ON (1) COKE AND PATENT COAL AND (2) COAL.**

217. **\*Mr. K. C. Neogy :** Have Government under their consideration further reduction of railway freight on (1) coke and patent coal and (2) coal ? Have Government received a representation from the Bombay Millowners' Association on the subject ? If so, will the Government be pleased to indicate generally the lines and extent of the reduction now being considered ?

**Mr. A. A. L. Parsons :** Government are not at present considering any further reduction of railway freight on coal. The question of a

reduction of railway freight on coke is under consideration. A representation was received from the Bombay Millowners' Association on the subject of reduction of railway freights on coal to Bombay and they were informed that no further reductions could at present be made.

#### COAL PURCHASE POLICY OF THE GOVERNMENT OF INDIA.

218. \*Mr. K. C. Neogy : Did Government receive a representation from the Indian Mining Federation of Calcutta suggesting the appointment of a Committee including the representatives of the Legislature and the coal trade to formulate, among other things, recommendations bearing on the coal purchase policy of the Government ? If so, what action do Government propose to take on the representation ?

**The Honourable Sir George Rainy :** Yes.

The Government do not propose to appoint a Committee of the composition suggested by the Indian Mining Federation to formulate their coal purchase policy to be adopted by Government, but the policy is under the consideration of the Government.

#### DEPTHS OF COAL MINES IN THE JHARIA AND RANEESGUNJ COALFIELDS.

219. \*Mr. K. C. Neogy : Will Government be pleased to lay on the table a statement showing the number of coal mines in the Jharia and Raneegunj fields mining coal at a depth (a) not exceeding 100 feet from the surface, (b) between 100 to 250 feet from the surface, (c) between 250 to 500 feet from the surface, (d) between 500 to 750 feet from the surface, (e) over 750 feet ?

**The Honourable Sir Bhupendra Nath Mitra :** I lay on the table a statement giving the required particulars in respect of coal mines in operation in July 1927.

*Statement showing maximum depths of coal mines in operation in July 1927 in the Jharia and Raneegunj coalfields.*

Depths.	Number in	
	Jharia.	Raneegunj.
Not exceeding 100 feet	54	58
Between 100 and 250 feet	100	106
Between 250 and 500 feet	63	45
Between 500 and 750 feet	20	12
Over 750 feet	1	14

#### NUMBER OF COAL MINES CLOSED DURING CERTAIN SPECIFIED PERIODS.

220. \*Mr. K. C. Neogy : Will Government be pleased to state how many coal mines were closed in each year from 1924 to 1926 and from January 1927 to June 1927 ?



**The Honourable Sir Bhupendra Nath Mitra :** I lay on the table a statement showing the number of coal mines closed, the numbers opened or re-opened and the net reduction in each period.

*Statement showing the number of coal mines in British India closed and the number opened or re-opened since 1st January 1924.*

Year.	Number of Coal Mines.		
	Closed.	Opened or re-opened.	Net reduction.
1924	102	81	-21
1925	118	65	-53
1926	122	48	-74
1927 (January to June).	71	26	-45 (for half year).
Total	413	220	-193

**MANAGEMENT OF THE WESTERN HOSTEL, NEW DELHI.**

221. **\*Mr. Harchandral Vishindas :** (a) Will the Government be pleased to state what action, if any, they propose to take for the future management of the Western Hostel, Raisina ?

(b) Will the Government be pleased to state whether they have any intention of selling or transferring this property for purposes other than its use by the Members of the Central Legislature ?

(c) Will the Government be pleased to state whether they have considered the advisability of handing over management of the hostel to the House Committee of the Legislature whose appointment was foreshadowed by the Honourable the President of the Legislative Assembly ?

(d) Will Government consider the advisability of appointing a Committee to go into the whole question of residence and accommodation for Members including the use of the Western Hostel ?

**The Honourable Sir Bhupendra Nath Mitra :** (a) For the forthcoming season it is proposed to continue the same arrangements as were adopted for the 1927 season.

(b) Government have no intention at present of selling or transferring the property, but they are investigating the possibilities of so doing, as the establishment of a hotel in New Delhi is one of considerable importance.

(c) The answer is in the negative.

(d) Government would welcome the appointment of a Committee for the purpose, if this is the wish of the Members of the Legislature. As a matter of fact, I have already tabled a Resolution in regard to a Committee.

### APPOINTMENT OF RETIRED GOVERNMENT SERVANTS ON THE ASSAM BENGAL RAILWAY.

222. \***Mr. Anwar-ul-Azim** : Will the Government in the Department of Railways be pleased to state whether the Assam Bengal Railway has the absolute monopoly of appointing retired servants of Government in filling up vacancies, which require technical skill and knowledge ?

**Mr. A. A. L. Parsons** : There are no restrictions on the discretion of the authorities of the Assam Bengal Railway in this matter.

### GOVERNMENT EXAMINERS OF ACCOUNTS ON THE ASSAM BENGAL RAILWAY.

223. \***Mr. Anwar-ul-Azim** : Will the Government be pleased to state who is responsible for the appointment of the Examiners of Accounts in the various railway systems in India ? Who is the present incumbent at Chittagong ? Will he have a chance of stepping into the services of the Assam Bengal Railway Company after he reaches his 60th year, and exhausts all extensions as a Government servant like Babu J. R. Guha, Assistant Auditor ?

**The Honourable Sir Basil Blackett** : The postings of Government Examiners of Accounts who are members of the Indian Audit and Accounts Service are made by the Auditor General. The Accountant General, Railways, is responsible for the posting of Assistant Audit Officers as Government Examiners. The post of Examiner at Chittagong is held by **Mr. P. C. Nandi**. The appointments in the office of Chief Auditor, Assam Bengal Railway, are, as on other Company-worked lines, made by the Home Board of the Company and not by Government. With regard to **Rai Sahib J. R. Guha**, I may point out that he has not yet reached his 55th year.

### APPOINTMENT OF MUSSALMANS AS HOSPITAL ASSISTANTS, COMPOUNDERS AND SANITARY INSPECTORS ON THE ASSAM BENGAL RAILWAY.

224. \***Mr. Anwar-ul-Azim** : Will the Government be pleased to state what are the reasons for not appointing any hospital assistants, compounders and Sanitary Inspectors by the Assam Bengal Railway Company from the ranks of Mussalmans ?

**Mr. A. A. L. Parsons** : There are no reasons why Mussalmans should not be appointed to the posts mentioned, provided they have the necessary qualifications.

### NUMBER OF TICKET COLLECTORS ON THE ASSAM BENGAL RAILWAY.

225. \***Mr. Anwar-ul-Azim** : How many ticket collectors are there in the Assam Bengal Railway ? What are their grades ?

**Mr. A. A. L. Parsons** : There are 131 ticket collectors on the Assam Bengal Railway. The grades are as follows :

A.	..	..	..	Rs.	20—2—25
B.	..	..	..	Rs.	27—2—39
C.	..	..	..	Rs.	40—2½—50
D.	..	..	..	Rs.	53—3—74
E.	..	..	..	Rs.	76—4—100

**Mr. Anwar-ul-Azim :** May I inquire whether those scales have any similarity to the scales fixed by the State-managed Railways ?

**Mr. A. A. L. Parsons :** I will obtain the information for the Honourable Member. I am afraid I have not got it here.

**METHOD OF RECRUITMENT OF ASSISTANT TRAFFIC SUPERINTENDENTS ON THE ASSAM BENGAL RAILWAY.**

226. **\*Mr. Anwar-ul-Azim :** How do the Assam Bengal Railway recruits their Assistant Traffic Superintendents ? How many are they now ? What are their qualifications ? How many of them have been appointed by this Company from the ranks of Chief Clerks, and have they been required to pass any examinations like others appointed from outside ?

**Mr. A. A. L. Parsons :** Assistant Traffic Superintendents have hitherto been recruited by selection. There are 7 now. They have all passed the necessary examinations in traffic working except one or two who by reason of their long service in the subordinate grade have qualified themselves by practical experience. Two have been promoted from the rank of Chief Clerks, and they have not been required to pass any examinations for the reason I have explained.

**RECRUITMENT OF APPRENTICE MECHANICS ON THE ASSAM BENGAL RAILWAY.**

227. **\*Mr. Anwar-ul-Azim :** Will the Member in charge of Railways be pleased to state :

- (a) What are the rules for recruitment of apprentice mechanics in the Assam Bengal Railway ?
- (b) What is the present number of mechanical apprentices ? How many of them are Mussalmans ? Is there any provision for reservation of posts for qualified Moslem candidates ?
- (c) What remuneration is paid to apprentice mechanics ? Is it a fact that the apprentices are treated like ordinary labourers and are paid for the hours they work in the workshop and are not paid anything for Sundays and other public holidays ?
- (d) What is the rate of remuneration of mechanical apprentices in the State-managed Railways ?
- (e) Is it a fact that there is no separate Shop Instructor for the apprentices ? Do the Government propose to improve the present arrangements made by the Assam Bengal Railway for training the mechanical apprentices ?

**Mr. A. A. L. Parsons :** (a) A copy of the rules will be supplied to the Honourable Member.

(b) The present number of mechanical apprentices is 35, of which 7 are Mussalmans. No posts are reserved for Muslim candidates. Apprentices are engaged on the results of a competitive examination.

(c) The rates of remuneration range between 8 annas per day for the first year to Rs. 1-4 per day for the 5th year of training.

Payment is made only for the days the apprentices work.

(d) I place on the table a statement showing the rates of remuneration of mechanical apprentices on State-worked Railways.

(e) There are 8 Instructors for the apprentices. Government have no reason to believe that the arrangements for training the apprentices are unsatisfactory.

*Statement showing the rates of remuneration of mechanical apprentices on State-worked Railways.*

The rates of remuneration on the East Indian Railway range between Rs. 10 per month for the first year to Rs. 30 in the 5th year, and on the Eastern Bengal Railway between Rs. 15 per month in the first year to Rs. 40 in the 6th year. Free board (or an allowance in lieu) is allowed to the apprentices on these Railways. On the North-Western and Great Indian Peninsula Railways the stipend includes an allowance for board and the rates are :

*North-Western Railway.*

**Mughalpura—**

Rs. 50 in the first year rising to Rs. 90 in the 5th year.

**Other Stations—**

Rs. 40 in the first year rising to Rs. 80 in the 5th year.

*Great Indian Peninsula Railway.*

**Paré and Matunga—**

B. Class apprentices—Rs. 32 in the first year rising to Rs. 72 in the 4th year.

A. Class apprentices—Rs. 45 in the first year rising to Rs. 91 in the 4th year.

**Jhansi—**

B. Class apprentices—Rs. 23 in the first year rising to Rs. 68 in the 4th year.

A. Class apprentices—Rs. 42 in the first year rising to Rs. 83 in the 4th year.

**NUMBER OF MUHAMMADANS AND NON-MUHAMMADANS EMPLOYED ON THE GREAT INDIAN PENINSULA RAILWAY.**

228. \*Maulvi Muhammad Yakub : (a) Will the Government be pleased to say how many Muhammadans and non-Muhammadans are serving in the Great Indian Peninsula Railway in different grades and establishments both in the higher and lower appointments ?

(b) Will the Government be pleased to say what is the proportion of appointments in different establishments within the last three years ?

**Mr. A. A. L. Parsons :** I would refer the Honourable Member to the information contained in the following issues of the Report by the Railway Board on Indian Railways :

1924-25, Volume I, Appendix G.

1925-26, Volume I, Appendix F.

1924-25, Volume II, Appendix C.

1925-26, Volume II, Appendix C.

Similar information will be published for 1926-27.

**NUMBER OF MUHAMMADANS DISMISSED SINCE THE AMALGAMATION OF THE EAST INDIAN RAILWAY PORTION (JUBBULPORE TO ALLAHABAD) WITH THE GREAT INDIAN PENINSULA RAILWAY.**

229. \*Maulvi Muhammad Yakub : Will the Government be pleased to say how many Muhammadans have been dismissed since the amalgamation of the East Indian Railway portion (Jubbulpore to Allahabad) with

reference to the past preceding three years and in proportion to other Indians for the same period ?

**Mr. A. A. L. Parsons :** I presume the Honourable Member refers to discharges. If so, the figures which he wants are not available and could only be obtained, if at all, by a laborious enquiry which Government do not consider it desirable to undertake.

**EMPLOYMENT OF MUHAMMADANS ON THE GREAT INDIAN PENINSULA RAILWAY.**

230. \***Maulvi Muhammad Yakub :** Will the Government say what measures have been taken and methods adopted to have a fair proportion of Muhammadans on the Great Indian Peninsula Railway, and if no such steps have been taken, do Government propose to take some steps towards this direction as has been done in other Railways ?

**Mr. A. A. L. Parsons :** The policy of Government in respect of the prevention of the preponderance of any particular community in the Railway Services has been communicated to all Railways, including the Great Indian Peninsula Railway.

**Maulvi Muhammad Yakub :** Will the Government be pleased to enquire what effect has been given by the different Railways to the directions issued by the Government in this connection ?

**Mr. A. A. L. Parsons :** I have no reason to believe that they are not following our policy.

**DISCHARGE OF ABDUL MAJID, GOODS CLERK, BY THE GREAT INDIAN PENINSULA RAILWAY.**

231. \***Maulvi Muhammad Yakub :** (a) Will the Government be pleased to give reasons for which the Goods Clerk Abdul Majid, Great Indian Peninsula Railway, was discharged from service in August 1926 by the Chief Traffic Manager, Bombay ?

(b) Will the Government further state the charges brought against him, and if there exist no charges, what steps have been taken by the Agent on receipt of notice to the Secretary of State for India in Council and by the Secretary of the Board on receipt of the representation from him in March 1927 ?

**Mr. A. A. L. Parsons :** (a) Government have no information.

(b) A representation was received from Abdul Majid by the Railway Board which was not entertained as under the conditions of his service he had no right of appeal to the Railway Board against his discharge.

**RULES OF THE GREAT INDIAN PENINSULA RAILWAY REGULATING THE APPEALS OF DISCHARGED HANDS.**

232. \***Maulvi Muhammad Yakub :** Will the Government be pleased to lay on the table the rules, if any, of the Railway, which prohibit interviews of subordinates by the Chief Traffic Manager and which prohibit the discharged hands from appealing to represent their cases to the authorities ?

**Mr. A. A. L. Parsons :** There are no such rules.

## DEDUCTION OF WAGES OF RAILWAY EMPLOYEES.

233. \*Maulvi Muhammad Yakub : Will the Government be pleased to say if there are any rules of the Railway which allow the authorities to deduct well earned wages of subordinates without intimating the fact to the person concerned ?

Mr. A. A. L. Parsons : There is no such rule.

## [AWARD OF DOUBLE PUNISHMENTS TO RAILWAY EMPLOYEES.

234. \*Maulvi Muhammad Yakub : Will the Government be pleased to say if there are such rules by which a railway subordinate is doubly punished for the same clerical error at different times by different officers ?

Mr. A. A. L. Parsons : There is no such rule.

## RE-EMPLOYMENT OF DISCHARGED RAILWAY EMPLOYEES.

235. \*Maulvi Muhammad Yakub : Will the Government be pleased to say how many discharged hands are being re-employed during the last 10 years, and what were the charges against them justifying dismissal and the reasons for taking them back in service ?

Mr. A. A. L. Parsons : Government have no information, and regret that they cannot offer to undertake to make the laborious and expensive enquiries which would be necessary to obtain it.

## AGREEMENTS WITH RAILWAY SERVANTS ON THE GREAT INDIAN PENINSULA RAILWAY.

236. \*Maulvi Muhammad Yakub : Will the Government be pleased to say if there was any necessity to have railway servants bound over by agreements since the Great Indian Peninsula Railway became a State Railway ?

Mr. A. A. L. Parsons : All Railways' employees have to execute agreements on appointment, and when the old Great Indian Peninsula Railway staff was taken over by the State, it was necessary that they should enter into agreements with the State.

## DISMISSAL OF MR. B. L. DE ROZARIO, LATE DEPÔT STORE KEEPER, ALAMBAGH STORES DEPARTMENT.

237. \*Maulvi Muhammad Yakub : (a) Under what circumstances was Mr. B. L. De Rozario, late Depôt Store Keeper, Alambagh Stores Department, dismissed from his service ?

(b) Was the said Mr. De Rozario arrested by the police and after an investigation discharged by an order of the Special Magistrate of Lucknow on the 28th May 1925 ?

(c) Is it a fact that Mr. Lightowler was in direct charge of the Charbagh Stores Department in March 1922, and Mr. Ireland, Sub-Store Keeper, was in charge of the Metal Godown in 1922 and it was he who dealt with the delivery orders and had the handling, weighing and loading of all the brass material in his direct charge ?

(d) Were any of the two above-mentioned European officers brought to book in connection with the late Oudh and Rohilkhand Railway Department fraud cases ?

(e) Is it a fact that under orders G./8, dated 16th January 1924, and G./39, dated 15th March 1924, and Order No. 19-G., dated 27th March 1924, the Depot Store Keeper had absolutely nothing to do with the delivery of brass material, not even with the weighing of inward and outward wagons in March 1922 ; if so, why was Mr. B. L. De Rozario considered responsible for anything in connection with the Store Department fraud cases ?

(f) Was Mr. De Rozario given any suspension allowance, bonus and gratuity ; if not, why not ?

**Mr. A. A. L. Parsons :** (a) and (b). In the course of his enquiry in connection with the Oudh and Rohilkhand Railway stores frauds, the special police investigating officer secured proof that Mr. Rozario had been implicated in certain fraudulent transactions. Mr. Rozario was arrested on the 19th September 1924 on a charge of criminal breach of trust. Eventually it was decided to deal with Mr. Rozario departmentally and consequently his bail bonds were cancelled by the Special Magistrate, Lucknow, on the 28th of May 1925. Mr. Rozario was, therefore, called upon to show cause why he should not be dismissed and, as he was unable to give satisfactory replies to the charges framed against him, his services were dispensed with.

(c) Mr. Lightowler was officiating District Controller of Stores, District II, Alambagh, and had control over the Charbagh Stores Department, which was under the direct charge of Mr. Rozario. Mr. Ireland was Sub-Storekeeper under Mr. Rozario.

(d) Mr. Lightowler was given a severe warning for lack of care, intelligence and energy in the performance of his duties. Mr. Ireland was dismissed.

(e) The orders referred to were not in force at the time the frauds, in which Mr. Rozario was implicated, were committed.

(f) Mr. Rozario received suspension pay for the full period he was under suspension, but, in view of the circumstances in which he was dismissed, he was not eligible for bonus or gratuity.

**SENIOR COMMERCIAL INSPECTOR, GREAT INDIAN PENINSULA RAILWAY.**

238. \***Maulvi Muhammad Yakub :** Will the Government be pleased to state from what date the post of Chief Commercial Inspector was created ? Was there such a post ever in existence in the Great Indian Peninsula or any other Railway ? What are the qualifications of the present incumbent ? What was his designation and pay before and after joining the present post ? Will there be a saving of seven thousand rupees by abolishing the post ?

**Mr. A. A. L. Parsons :** Presumably the Honourable Member refers to the post of Senior Commercial Inspector as there is no post of Chief Commercial Inspector on the Great Indian Peninsula Railway.

The post was created in 1925. Prior to that date, it existed under a different designation.

The present incumbent of the post has the necessary qualifications to discharge his duties efficiently. He has risen from the post of a guard through the ranks of a station master and traffic inspector.

Prior to his appointment as Senior Commercial Inspector he was a Divisional Transportation Inspector on Rs. 500 per mensem and he has since officiated as Assistant Goods Superintendent, Wadi Bunder. His pay as Senior Commercial Inspector is the same as he was drawing as Divisional Transportation Inspector.

There would be no saving by abolishing the post because, if the work that the incumbent of the post performs was left undone, the Railway would lose considerably more than the saving in pay thus effected.

#### CHIEF GOODS INSPECTORS, GREAT INDIAN PENINSULA RAILWAY.

239. \***Manvi Muhammad Yakub** : Will the Government be pleased to state if there was any such post as the Chief Goods Inspector on the Great Indian Peninsula Railway or in any other Railways ?

**Mr. A. A. L. Parsons** : There are two posts of Chief Goods Inspectors on the Great Indian Peninsula Railway on Rs. 450—25—500 per mensem each.

The designation is not used on other Railways, but they have Goods Supervisors or Goods Inspectors.

#### EMPLOYMENT OF A-GRADE STATION MASTERS AT SUTNA AND KATNI ON THE GREAT INDIAN PENINSULA RAILWAY.

240. \***Manvi Muhammad Yakub** : Will the Government be pleased to say what is the necessity of having highly paid (A) grade station masters, who have no experience of goods and coaching matters, and of less qualifications at less important stations (such as Sutna and Katni) where sub-assistant station masters and yard inspectors have already been provided ?

**Mr. A. A. L. Parsons** : It is within the competence of the Agent to post Station Masters of the various grades to the different stations according to requirements, and Government do not interfere in such matters.

#### THE *Rangila Rasul* CASE.

241. \***Mr. Abdul Hays** : 1. Are the Government aware that in January last one Raj Pal of Lahore was convicted under section 153-A, Indian Penal Code, for having published a highly offensive and scurrilous pamphlet called *Rangila Rasul* against the Prophet of Islam and that his appeal was dismissed by the Sessions Judge, Lahore ?

2. Is it a fact that when the case came before the Lahore High Court on the revision side, Mr. Justice Dalip Singh, while agreeing fully with the concurrent finding of the two lower courts that the pamphlet in question was a scurrilous satire on the founder of the Muslim religion, acquitted the accused on the ground that such writings did not fall within the purview of section 153-A of the Indian Penal Code, and that there was no other provision of law under which Raj Pal could be convicted ?



3. Since the enactment of section 153-A of the Indian Penal Code have there been any previous occasions on which this defect in the existing law was pointed out by any of the High Courts in India ?

4. If the answer to part 3 be in the affirmative, why were no steps taken by the Government to amend the law ?

5. Are the Government aware that since the acquittal of Raj Pal there have been repeated scurrilous attacks against the Prophet of Islam by the Hindu Press and Hindu publishers which have considerably exasperated Muslim public opinion ?

6. Are the Government aware that the Allahabad High Court has recently taken a contrary view and dissented from the judgment of Mr. Dalip Singh ?

7. Are the Government aware that in a similar case on an application filed by one Kali Charan Sharma under section 99 of the Criminal Procedure Code, a Special Bench of the Allahabad High Court, presided over by Justices Walsh, Lindsay and Bannerji, has held that such writings containing wanton attacks on the life of a religious teacher promoted, or were intended to promote, feelings of enmity or hatred between different classes of His Majesty's subjects and came within the purview of law ?

8. Did the Government refer this matter of serious conflict of decision to their law officers for opinion ? If so, will the Government lay that opinion on the table ?

9. Do the Government propose to apply to the Privy Council for special leave to appeal against the order of Mr. Justice Dalip Singh in *re Raj Pal* ?

10. Are the Government aware that the title of this book *Rangila Rasul* being very offensive and scurrilous is greatly resented by the Muslims ? Are the Government prepared to issue instructions that in official correspondence and communications the actual name of the case (*Raj Pal versus Crown*) should be used or it should be referred to as *Raj Pal's case* and not as the *Rangila Rasul case* ?

11. Are the Government aware that *Raj Pal* is not the author of the pamphlet *Rangila Rasul* but only its publisher ? Are the Government prepared to direct the Local Government of the Punjab to find out by police investigation or otherwise the real culprit and prosecute him under section 153-A/109, Indian Penal Code ?

**The Honourable Mr. J. Crerar :** 1 and 2. Yes.

3. Government are not aware that general views of this character have been expressed before by any High Court.

4. Therefore does not arise.

5. Two publications alleged to contain such attacks have come to the notice of Government. Of these one was the subject of legal proceedings, while the other was proscribed by the Government of the Punjab.

6. Mr. Justice Dalal of the Allahabad High Court was unable to agree with some of the general arguments of Mr. Justice Dalip Singh's judgment.

7. The Honourable Judges do not appear to have laid down the exact proposition stated by the Honourable Member. The judgments were concerned with the intention of the writer of the particular book then in question.

8. A Divisional Bench of the Lahore High Court have recently expressed a view of the law, which appears to be substantially in accordance with that held by the Allahabad High Court. The point raised in this question therefore does not arise.

9. No.

10. The title no doubt is objectionable, but it is difficult to avoid all reference to it, and in this connection official correspondence is of much less importance than press notices, which cannot be controlled by the Government.

11. Government do not propose to issue any instructions in the matter to the Government of the Punjab, who are primarily concerned and have throughout handled a very difficult situation with commendable judgment and restraint.

#### PRECEDENCE OF A MEMBER OF THE LEGISLATIVE ASSEMBLY IN DARBARS.

242. \***Mr. Anwar-ul-Azim** : Will the Government be pleased to state what is the status of a Member of this Assembly, in matters of precedence, in Imperial, Provincial, and Divisional Darbars in India ?

**The Honourable Mr. J. Orerar** : The Honourable Member is referred to the reply given by Sir Alexander Muddiman on the 31st January, 1927, to a similar question.

#### INTERPRETATION OF SECTIONS 148 AND 151 OF THE CODE OF CRIMINAL PROCEDURE, 1908, BY THE HIGH COURT, CALCUTTA.

243. \***Mr. Anwar-ul-Azim** : Will the Government be pleased to state whether the Legislative Department of the Government of India is in touch with all the machinery of administration which puts into execution the various laws promulgated by this House ? If so, will the Department tell us what have been the decisions of the High Court of Calcutta with regard to the interpretation of sections 148 and 151 of the Criminal Procedure Code of 1908, up to now ?

**Mr. W. T. M. Wright** : I am not sure that I understand the meaning of the first part of the question. The Legislative Department are not in a position to give the Honourable Member any information regarding decisions of the High Courts other than those reported in the Law Reports or referred to in Commentaries, or which may be specially brought to the notice of the Department.

#### APPOINTMENT OF MEMBERS OF MINORITY COMMUNITIES TO THE SERVICES.

244. \***Mr. Anwar-ul-Azim** : Will the Government be pleased to state what are the circulars of the Government of India with regard to the appointment of people from the minority communities of this country ?

Which are the Departments of Government to which no circulars have so far been issued and the Departments where they have proved ineffectual ?

**The Honourable Mr. J. Crerar :** General instructions on the subject have been issued by the Home Department. The principles laid down are applicable to the Government of India as a whole, and Departments do not ordinarily issue independent orders on the subject, but confine themselves to bringing the general orders, where necessary, to the notice of subordinate authorities. I know of no case in which the orders have proved ineffectual.

**METHOD OF RECRUITMENT TO THE SERVICES IN INDIA.**

245. **\*Mr. Anwar-ul-Azim :** (a) Will the Government be pleased to state whether it is a fact that the services in this country are mostly recruited from the relations of officers who have served Government in some capacity or other ?

(b) If the answer is in the affirmative, will the Government be pleased to state if they are prepared to keep a certain percentage of Government appointments for people who answer the necessary qualifications, but are not relations of a Government servant, past or present ?

(c) What is the percentage of officers in the Government of India, who are relations of somebody in the service of the Government of India ?

**The Honourable Mr. J. Crerar :** (a) It is no doubt the case that there is a tendency for the relatives of Government officers to seek Government service, but Government could not admit the accuracy of the general statement suggested in the question.

(b) Does not arise.

(c) The statistics are not available, and as a large proportion of the officers in question are recruited by examination, the results of collecting them could hardly justify the great expenditure of time and labour that would be involved.

**PREFERENTIAL CLAIMS OF MUSSALMANS TO APPOINTMENTS IN THE STATE MANAGED RAILWAYS.**

246. **\*Mr. Anwar-ul-Azim :** Will the Government be pleased to state whether in the State-managed Railways Mussalmans have any preferential claims by virtue of their importance as a community ?

**Mr. A. A. L. Parsons :** I would refer the Honourable Member to the Resolution passed in the Assembly on 10th March, 1923. The policy of Government is to avoid a preponderance of any particular community in the services and not to see that all the various communities are represented according to their numerical strength.

**THE MANIHARI RAJ ESTATE IN THE SANTHAL PARGANAS.**

247. **\*Kumar Ganganand Sinha :** (a) Are the Government aware of the fact that (i) by order, dated the 24th January 1805 the Governor General in Council sanctioned Raja Gajraj Singh to continue in posses-

sion of the lands and jagir held by him in the district of the Santhal Parganas free of assessment and not subject to payment of any revenue, (ii) that by a letter dated the 3rd October, 1837 regarding the filing of the redemption suit for that estate, the supreme Government observed that a compromise might unquestionably be made with the heirs of Raja Gajraj Singh ?

(b) Is it a fact that in spite of these directions, the local authorities instituted redemption proceedings under one plea or other ?

(c) Are the Government aware of the fact that the supreme Government by their letter, dated the 15th July, 1839, directed that if the redemption proceedings be decided in favour of the Government, the fact must be reported to the Government before the assessment of the land would begin and as a result of which the collection, which the local authorities had commenced to make over the jagirs of the Manihari Raj, was stopped ?

(d) Will the Government be pleased to state whether the result of the redemption proceedings was reported to the supreme Government for necessary orders, if so, when and what instructions were issued by the supreme Government in this connection ?

(e) Did the Government receive any report with regard to the amicable settlement suggested by them ? If so, did the supreme Government verify the same or not ?

(f) Will the Government be pleased to lay on the table a copy of the letter it received from the local authorities on this point and state how the report was verified, and if it was not verified, why ?

(g) Will the Government be pleased to state whether or not it has ascertained if their direction to definitely ascertain the value of the jagir land and the Malkana rights of the Manihari Rajas was carried out by the local authorities or not ; if so, how and when ; if not, what action has been taken in this connection by the Government ?

**Mr. A. B. Dalal :** The Government of India have ascertained from the Local Government that the matters referred to in the question form the subject of certain civil suits pending in the court of the Settlement Officer, Santhal Parganas. They are, therefore, precluded from answering any portion of this question.

#### AMALGAMATION OF THE ORIYA-SPEAKING TRACTS.

248. **\*Mr. Gaya Prasad Singh :** (a) Are Government aware that a Resolution recommending the amalgamation of the Oriya-speaking tracts was carried in the Bihar and Orissa Legislative Council on the 25th November 1921 ?

(b) Are Government aware that the Honourable Mr. Madhusudan Das, who was then a Minister, supported the Resolution ?

(c) When do Government propose to take steps for the amalgamation of the Oriya-speaking tracts with the Orissa Division of the Province of Bihar and Orissa ?

**The Honourable Mr. J. Orerar :** (a) Yes.

(b) Yes.

(c) The whole question is still under consideration, and no definite statement can be made at present.

REMOVAL OF THE CAPITAL OF THE UNITED PROVINCES FROM ALLAHABAD TO LUCKNOW.

249. \*Mr. Gaya Prasad Singh : (a) Have Government received any memorial from persons of the United Provinces, protesting against the gradual removal of the capital of the United Provinces from Allahabad to Lucknow ?

(b) Will Government kindly state if there is any truth in the report that the area of the United Provinces administration is likely to be separated into two ; or that the permanently settled tracts of the United Provinces are likely to be amalgamated with the Province of Bihar and Orissa, where the system of permanent settlement prevails ?

The Honourable Mr. J. Crerar : (a) Yes.

(b) Government have not heard of any such report.

ALLEGED EXCESSIVE AND UNFAIR ASSESSMENT OF INCOME-TAX IN BIHAR AND ORISSA.

250. \*Mr. Gaya Prasad Singh : (a) Are Government aware that Mr. W. Johnston, Commissioner of Income-tax, Bihar and Orissa, issued the following Circular, No. A-334/6, dated Ranchi, the 28th March 1927 to Income-tax Officers :

“ As the point on which the legal ruling was communicated in my Circular No. A-334/4, dated the 9th February 1927 which has since been cancelled, is by no means clear, and as there are contrary rulings on the point at issue, it is impossible to issue a clear laying down policy to be followed in every case. On the other hand you should take the view in any particular case which is favourable to the department, and leave the assessee to press for a decision on a reference to the High Court, if he is so advised ” ?

(b) Are Government aware that this Circular, by asking the Income-tax Officers to “ take the view in any particular case which is favourable ” to the Income-tax Department, has led to the harassment of many assesseees by excessive and unfair assessment ?

(c) Do Government propose to ask Mr. Johnston to withdraw this Circular ?

The Honourable Sir Basil Blackett : The Government have no information on the subject.

As far as I can judge, the Honourable Member seems to be referring to confidential correspondence between the Income-tax Commissioner and his officers. If so I shall be very grateful if he will explain how it came into his possession and why he is making public use of it.

Mr. Gaya Prasad Singh : Are Government aware that the circular to which reference has been made does not bear on the face of it any remark to indicate that it is of a confidential nature ? It was issued in the ordinary course of official business.

The Honourable Sir Basil Blackett : As I said, Government have no information on the subject and judging from the fact that the circular deals with correspondence of a confidential nature, I shall be glad if the Honourable Member will speak to me afterwards if he has made a correct use of it.

**Mr. Gaya Prasad Singh :** There is nothing to show that it was of a confidential nature. Is it not stated in the Income-tax Manual, Volume I, page 121 that " it is desirable that, with due regard to the fiscal interests of Government, all Income-tax officials should administer the Act in a sympathetic spirit " ?

**The Honourable Sir Basil Blackett :** If the Honourable Member will put the question down, I would verify his quotation from the Manual.

#### CLAIMS OUTSTANDING AGAINST THE BRITISH WAR OFFICE.

251. **\*Mr. Gaya Prasad Singh :** Has there been any expenditure incurred by Government during or on account of the Great War which forms the subject of a claim upon the British War Office ? If so, what is the total amount of the claim, how much of it has already been paid up, and how much is still outstanding ? What is the nature of the claim falling under the last category ?

**The Honourable Sir Basil Blackett :** The attention of the Honourable Member is invited to the statement placed on the table on 1st February, 1924 dealing with important financial items outstanding between His Majesty's Government and the Government of India, and to my answer on 15th February, 1927 to question No. 425 asked by Mr. Chaman Lall. There has been further progress in the matter, but I am not yet in a position to make a statement.

#### EXPENDITURE ON TROOPS SENT FROM INDIA TO CHINA.

252. **\*Mr. Gaya Prasad Singh :** (a) Has any sum been hitherto spent by Government out of India's revenue towards the equipment, despatch, or maintenance of India's troops in China, including arms and ammunitions ? If so, how much ?

(b) What is the number of troops sent out of India to China, English and Indian ?

**Mr. G. M. Young :** (a) I would refer the Honourable Member to the statement that I made in the House on the 25th March last.

(b) On the 1st May 1927, the effective strength of the Indian contingent of the Shanghai Defence Force was—

British ranks	..	..	..	..	2,232
Indian ranks	..	..	..	..	3,305
Followers	..	..	..	..	722

#### CONTRIBUTION TO THE AITCHISON COLLEGE, LAHORE.

253. **\*Mr. Gaya Prasad Singh :** (a) Do Government contribute any sum to the Aitchison College, Lahore ? If so, how much per year ?

(b) Is there any Managing Committee of this Institution ? If so, who are the members ?

**Sir Denys Bray :** (a) Rs. 15,000 a year from Central Revenues and Rs. 12,000 a year from provincial revenues.

(b) There is a large Committee of Management ; the Honourable Member will find the names in the last annual report of the College, a copy of which is in the Library.

SERIOUS COMPLAINTS MADE BY THE MERCANTILE COMMUNITY OF MEERUT AGAINST THE STATION MASTER OF MEERUT CITY STATION.

254. \*Mr. Ismail Khan : Is it a fact that the mercantile community of Meerut has made serious complaints against the station master of Meerut City station ? What action have the Government taken against the station master ?

Mr. A. A. L. Parsons : Government are not aware of any such complaints. They have, however, sent a copy of the Honourable Member's question to the Agent, North-Western Railway.

CONSTRUCTION OF THE RAJGHAT-JEHANGIRABAD AND BULANDSHAHR BRANCH RAILWAY.

255. \*Mr. Ismail Khan : Will the Government be pleased to state what progress has been made in the construction of the Rajghat-Jehangirabad and Bulandshahr Branch ? When is it expected to be completed and whereabouts in Jehangirabad is the railway station to be located ?

Mr. A. A. L. Parsons : A report on the project has just been received, and is under examination.

The location of the railway station in Jehangirabad has not yet been settled.

CUTTING OF TREES IN CANTONMENTS.

256. \*Mr. Ismail Khan : Are the Government aware that in Cantonments no owner of a bungalow can cut a tree in his compound without the previous sanction of the Executive officer, and that if the Executive Officer refuses his sanction, he is compelled to abide by it under a threat of criminal prosecution ? What law sanctions this interference with the rights of private property ?

Mr. G. M. Young : Government cannot prevent the felling of trees on private land. If the land belongs to Government the right of the lessee or grantee depends on the terms of the lease or grant. There is no question of interference with rights in private property.

COLLECTION OF TAXES IN CANTONMENTS.

257. \*Mr. Ismail Khan : 1. Are the Government aware that there is a great deal of discontent in the Cantonments about the provision of the Cantonment Act of 1923 which makes it compulsory on the occupiers of houses to go to the cantonment office to pay their taxes ? Are Government aware that it entails serious inconvenience and hardship on poor *pardah-nashin* ladies ?

2. According to the old system was there door to door collection of taxes ? If so, are Government prepared to revert to the old system ?

**Mr. G. M. Young :** (1) There is no such provision in the Cantonments Act, 1924, nor are the Government aware that any new system of tax collection has been introduced as a result of that Act.

(2) Government have no information on this point. Cantonment Authorities have, however, powers to frame bye-laws on the subject, and I would suggest that if there is any cantonment in which this grievance actually exists, a representation should be made to the Cantonment Authority.

#### RECOMMENDATIONS OF THE SKEEN COMMITTEE.

258. **\*Mr. Ismail Khan :** What action do the Government intend to take on the recommendations of the Skeen Committee with regard to :

- (a) ten vacancies allotted to Indians at Sandhurst being doubled in 1928,
- (b) eight vacancies being allotted to Indians at Woolwich and two at Cranwell in 1928 ?

**Mr. G. M. Young :** The Honourable Member is referred to the reply given to Diwan Chaman Lall's question No. 109.

#### RECOMMENDATIONS OF THE ECONOMIC ENQUIRY COMMITTEE.

259. **\*Mr. M. S. Aney :** (a) Will the Government be pleased to state whether the Government of India have by this time finished the consideration of the various recommendations of the Economic Enquiry Committee in so far as they affected them and come to any decisions thereon ?

(b) If the answer to the above be in the affirmative, will the Government be pleased to place the same on the table ?

(c) If the answer be in the negative, will the Government be pleased to explain the reasons for this delay ?

#### RECOMMENDATIONS OF THE ECONOMIC ENQUIRY COMMITTEE.

260. **\*Mr. M. S. Aney :** (a) Will the Government be pleased to say whether they have received replies from all the Provincial Governments to their letter (No. D.4299-F., Government of India, Finance Department), dated the 23rd of October 1925 ?

(b) If not, will Government be pleased to state what Provincial Governments have yet failed to submit their replies ?

(c) Will the Government be pleased to state what steps they have taken during the last twenty months to expedite the replies from these Provincial Governments ?

(d) With advertence to the reply given by the Honourable Sir Basil Blackett on the 19th of August 1926 on the floor of this House to question No. 105, do Government propose to publish the replies of the Provincial Governments to the above letter received to the beginning of August 1927 without waiting any longer for replies from defaulting Provincial Governments, if any ?

**The Honourable Sir George Rainy :** With your permission, Sir, I should like to reply to questions Nos. 259 and 260 together.



The replies of all the Local Governments have been received. The last of them was received only in March, 1927, and every endeavour is being made to deal with the Committee's recommendations as expeditiously as possible.

The Government do not propose to publish the replies, but copies have been placed in the Library.

**SOCIAL BOYCOTT OF INDIAN STUDENTS IN EDINBURGH.**

261. \*Mr. Abdul Hays : (a) Are Government aware that Indian students resident in Edinburgh have been subjected to social boycott ?

(b) Are Government aware that most of the landladies at Edinburgh do not take Indians as lodgers ?

(c) Is it a fact that in Edinburgh Indian students are refused admittance into places of amusement and entertainment such as restaurants, hotels, dance halls and ball rooms ?

(d) Has the attention of the Government been drawn to the reports sent by the Honorary Secretary, Edinburgh Indian Union, and published recently in almost all the Indian papers in which besides the facts mentioned above it is further stated that even the University life is not free from anti-Asiatic manifestations ; that native students stay at arm's length from the coloured students and any social intercourse is out of the question ; that Indians are not admitted to the Royal Medical Society ; that they were refused admittance to the annual dance of the University and even the swimming bath of the University is not open to them ?

(e) If the answer to part (d) be in the affirmative, what steps did the Government take to grant relief to the Indian students in Edinburgh and to safeguard their honour and interests ?

(f) Did the Government correspond with the Secretary of State for India in Council on the subject and ask him to use his good offices and prevent this objectionable treatment of Indian students ?

(g) Are Government prepared to lay this correspondence (if any) on the table ?

**The Honourable Mr. J. Orerar :** I invite the Honourable Member's attention to the answer I gave on the 22nd of August to a similar question by Mr. Gaya Prasad Singh. Government understand that Indian students have as a rule no difficulty in getting lodgings.

**EXHIBITION OF THE FILM ENTITLED THE " MOON OF ISRAEL " IN DELHI.**

262. \*Mr. Abdul Hays : (a) Will the Government please state what procedure is adopted by the Indian Board of Censors before a cinema film is passed ? Are any facilities afforded to the public to examine and take objection to the matter sought to be filmed ?

(b) Are Government aware that a film called " Moon of Israel " which was duly passed by the Board of Censors was considered objectionable by the Muslim public of Delhi who demanded its stoppage while it was being filmed at the Elphinstone Picture Palace in July last ?

(c) Have Government examined the film since then and what final orders have been passed in this matter ?

**The Honourable Mr. J. Crerar :** (a) There is at present no all-India Board of Censors. Section 7 (1) of the Cinematograph Act, 1918, as amended by the Cinematograph (Amendment) Act, 1919, empowers Local Governments authorised in this behalf by the Governor General in Council to constitute certifying authorities, and Boards have been set up in Madras, Bombay, Calcutta and Rangoon. Under the Act at least half of the members of these Boards must be non-officials. Government are at present carefully considering the whole system of cinema censorship.

(b) Yes.

(c) On receiving a report as to the nature of the film the District Magistrate suspended the certificate under section 7 (5) of the Cinematograph Act. The Chief Commissioner of Delhi subsequently discharged this order on obtaining from the Manager of the Picture Palace a written undertaking to the effect that the film would not be exhibited again in Delhi.

#### ACCOUNTS OF THE POST OFFICE LIFE INSURANCE FUNDS.

263. **\*Maulvi Muhammad Yakub :** Will the Government be pleased to state whether the accounts of the Postal Life Insurance Fund have been actually examined for the quinquennium 1922-27, and if so, whether an *ad interim* bonus has been declared or not? If not, when may such a declaration be expected?

**Mr. H. A. Sams :** The accounts of the Post Office Life Insurance Fund for the quinquennium 1922-27 have been made up for the purpose of the actuarial investigation which has been taken in hand. An *ad interim* bonus payable during the quinquennium was declared in January 1925.

#### EDUCATION OF THE CHILDREN OF INDIAN EMPLOYEES OF RAILWAYS.

264. **\*Maulvi Muhammad Yakub :** Will the Government be pleased to state what arrangements have been made by the railway authorities in India to carry out the recommendations of the Indian Public Service Commission of 1912, to provide better educational opportunities at all important railway centres to the children of Indian railway employees as is being given to Europeans and Anglo-Indians?

**Mr. A. A. L. Parsons :** The question of assistance to railway employees in the education of their children is under investigation by an officer of the Educational Department.

**Maulvi Muhammad Yakub :** May I know, Sir, how long has this question been under investigation and how much more time will it take before this investigation is finished?

**Mr. A. A. L. Parsons :** I think Mr. Jones has been on duty for about 8 years. I received a copy of his report—whether preliminary or final I am not sure,—yesterday.

OPENING OF RAILWAY INSTITUTES TO INDIANS.

265. \*Maulvi Muhammad Yakub : Are the Railway Institutes in India open to the Indian employees ? If not, why not ? Do the Government propose to issue orders that the existing Railway Institutes be opened for common use both by Europeans and Indians in order that a spirit of fellowship be promoted thereby between the two classes of employees ?

Mr. A. A. L. Parsons : The practice varies on different Railways. In some cases the Institutes are open to all employees—European, Anglo-Indian or Indian—and in others separate Institutes are provided for Indian employees. On account of the difference in the mode of living and the consequent difference in the amenities that the Institutes are intended to provide, Indian employees generally prefer to have separate Institutes of their own.

Maulvi Muhammad Yakub : Are there any Institutes established for the Indian employees on any of the Railways ?

Mr. A. A. L. Parsons : Yes, Sir.

DISCHARGE OF MR. NASIRUDDIN AHMAD, *Ex* HEAD ESTABLISHMENT CLERK OF THE COMBINED OFFICES OF GAYA AND DINAPORE, EAST INDIAN RAILWAY.

266. \*Maulvi Muhammad Yakub : (a) Will the Government be pleased to state under what circumstances the services of Mr. Nasiruddin Ahmad, *ex*-Head Establishment clerk of combined office Dinapur, Gaya Division, were dispensed with ?

(b) Was he served with any charge sheet and given an opportunity to tender an explanation ?

(c) Is it a fact that in 1924 when the post of the Establishment clerk fell vacant, the District Superintendent, Mr. Fitzpatrick, recommended a Bengali clerk for the post, but the then Chief Superintendent, Mr. F. E. Robertson, and the then General Traffic Manager, Mr. Hayman, selected Mr. Ahmad for the post ?

(d) Is it also a fact that the nominee of Mr. Fitzpatrick appealed to the Agent against the order of Mr. Ahmad's appointment which was disallowed by the Agent, Mr. Colvin, under his No. E-3773|1661-P. I. of 20th December, 1921 ?

(e) Is it a fact that when the Divisional system was enforced in September, 1924, Mr. Ahmad was given a *bona fide* "offer" of service which he formally accepted ?

(f) Is it a fact that on December 15th, 1924, Mr. Ahmad was taken to Dinapore by Mr. Jacobson to set up a Divisional office which he did ?

(g) Is it a fact that on December 16th, 1924, the said Mr. Jacobson gave Mr. Ahmad a letter to the medical officer for his retirement under physical unfitness ?

(h) Is it also a fact that on December 17th, 1924, Mr. Ahmad was promoted as in charge of the combined offices of Gaya and Dinapore ?

(i) Was Mr. Ahmad abruptly discharged on the 19th December, 1924, purporting to be under the terms of an agreement ?

(j) Is it not a fact that according to his new contract Mr. Ahmad had the prospect of serving 11 years more and on account of his abrupt discharge he lost his place, his gratuity for nearly 21 years and the benefits of retirement ?

(k) Do the Government propose to take measures in order to do justice to this unfortunate man ?

**Mr. A. A. L. Parsons :** (a), (b) and (i). In his own interests I am not prepared to give the reasons why Mr. Nasiruddin Ahmad was discharged. The East Indian Railway Company dispensed with his services before the Railway was taken under State management, and since the case was one of discharge and not of dismissal, there was no reason for serving him with a charge sheet.

(c) and (d). These events took place in 1921 and not in 1924, otherwise the Honourable Member's question substantially represents what occurred.

(e) and (j). The Honourable Member presumably refers to the offer of employment made to the staff of the East Indian Railway generally in connection with the transfer of the management of that Railway to the State. Mr. Ahmad received that offer, but it automatically lapsed on his discharge by the East Indian Railway Company before the transfer took place.

(f) and (h). Mr. Ahmad was transferred to Dinapore with all the other clerks in the Gaya District Office and was put in charge of the combined establishment branches of Gaya and Dinapore District offices.

(g) There is no record to this effect.

(k) Government do not propose to take any action.

#### RESERVATION OF FIRST AND SECOND CLASS COMPARTMENTS ON THE EAST INDIAN RAILWAY.

**Mr. B. P. Naidu :** Sir, may I ask the questions standing in the name of Khan Bahadur Sarfaraz Hussain Khan ?

**Mr. President :** I allow the Honourable Member to ask questions standing in the name of Khan Bahadur Sarfaraz Hussain Khan, but I propose hereafter to discourage the practice of Members giving notice of a large number of questions and not remaining present to put them.

267. **\*Mr. B. P. Naidu** (on behalf of Khan Bahadur Sarfaraz Hussain Khan) : With reference to the Government reply on 27th January, 1927, to starred question No. 5, regarding the reservation of first and second class compartments on the East Indian Railway, will Government please state if the experiment has actually been extended to all stations on the East Indian Railway as decided by the Agent ?

**Mr. A. A. L. Parsons :** The experiment has been extended to all stations on the East Indian Railway in local booking subject to a minimum distance of 100 miles.

**METHOD ADOPTED BY RAILWAY COMPANIES IN AMERICA SHOWING EXPENDITURE DISTRIBUTED BETWEEN PASSENGER AND GOODS WORKING.**

268. \***Mr. B. P. Naidu** (on behalf of Khan Bahadur Sarfaraz Hussain Khan) : (a) With reference to Government reply on 27th January, 1927 to starred question No. 8, regarding the method adopted by railway companies in America showing expenditure distributed between passenger and goods working, will Government please state if they have received the report of the officer deputed to examine American methods ?

(b) If so, will they please lay the report on the table ?

(c) If not, by what time do they expect to receive it ?

**Mr. A. A. L. Parsons** : (a), (b) and (c). The Honourable Member is referred to the reply given to Mr. N. C. Kelkar's question No. 206 on the same subject.

**POLL-TAX ON ASIATICS IN KENYA.**

269. \***Mr. B. P. Naidu** (on behalf of Khan Bahadur Sarfaraz Hussain Khan) : (a) With reference to Government reply "Government are in communication with the Colonial Government" given in reply to starred question No. 10 on the 27th January, 1927, regarding the poll-tax on Asiatics in Kenya, will Government please state if any final decision has been arrived at on the subject ?

(b) If so, will they please communicate the result to the House ?

(c) If no decision has been arrived at, will they please state by what time it is likely to be arrived at ?

**Mr. G. S. Bajpai** : The Honourable Member is referred to the reply given by me to Mr. N. C. Kelkar's question No. 187 on the same subject.

**FITTING OF AUTOMATIC CENTRE BUFFER COUPLERS TO ROLLING STOCK ON RAILWAYS.**

270. \***Mr. B. P. Naidu** (on behalf of Khan Bahadur Sarfaraz Hussain Khan) : (a) With reference to Government reply to starred question No. 12 on the 27th January, 1927, regarding the fitting of automatic centre buffer couplers to rolling stock on Railways, will Government please state whether the proposed trials to be made at Lahore have been made ?

(b) If so, will Government please state if they have come to any decision in the matter ?

(c) If not, by what time do they expect trials to be completed and decision arrived at ?

**Mr. A. A. L. Parsons** : (a) Yes.

(b) No, because these or similar trials are also being made in other places and the investigation into the financial aspect of the problem will need reconsideration after all the trials are complete.

(c) It is not possible yet to name a date.

### ARRANGEMENTS FOR THE SECURITY OF INDIAN PILGRIMS BETWEEN JEDDAH AND MECCA.

271. \***Mr. B. P. Naidu** (on behalf of Khan Bahadur Sarfaraz Hussain Khan) : (a) Has the attention of the Government been drawn to the paragraph published in the issue of the *Statesman* of 18th May, 1927, under the heading "Pilgrims to Mecca" ?

(b) If so, will they please state whether the reply given in the House of Commons by Earl Winterton as reported is correct ?

(c) Will Government please state if the arrangements for the security of Indian pilgrims between Jeddah and Mecca were satisfactory in the present year ?

**Sir Denys Bray** : The answer to all three parts of the question is 'Yes'.

### INTRODUCTION OF THE CREW SYSTEM ON INDIAN RAILWAYS.

272. \***Mr. B. P. Naidu** (on behalf of Khan Bahadur Sarfaraz Hussain Khan) : (a) When was the crew system introduced on Indian Railways ?

(b) On which lines has the system been introduced so far ?

(c) Will Government please state if the system has proved a success ?

**Mr. A. A. L. Parsons** : (a) On the East Indian Railway in August 1926.

(b) On the East Indian Railway.

(c) The system is still under trial.

### ACQUISITION OF RAILWAY COLLIERIES.

273. \***Mr. B. P. Naidu** (on behalf of Khan Bahadur Sarfaraz Hussain Khan) : (a) Will Government please state if any railway collieries have been acquired after laying on the table the statement in reply to starred question No. 13 on the 27th January, 1927 ?

(b) If so, how many ?

**Mr. A. A. L. Parsons** : The answer is in the negative.

### REPORT OF THE TARIFF BOARD REGARDING THE MANUFACTURE IN INDIA OF ARTICLES IN COMMON USE ON RAILWAYS.

274. \***Mr. B. P. Naidu** (on behalf of Khan Bahadur Sarfaraz Hussain Khan) : (a) Will Government please state if they have received the Report of the Tariff Board on the question of manufacture in India of articles in common use on Railways (*vide* starred question No. 14 on the 27th January, 1927) ?

(b) If so, will they please communicate the result to the House ?

(c) If not, by what time do they expect to receive it ?

**The Honourable Sir George Rainy** : The Report has been received and is under consideration.

PART II OF THE REPORT OF THE BACK BAY RECLAMATION COMMITTEE.

275. \*Mr. B. P. Naidu (on behalf of Khan Bahadur Sarfaraz Hussain Khan) : (a) Will Government please state if they have received copies of Part II of the Report of the Back Bay Reclamation Committee from England (*vide* Government reply to starred question No. 27 on the 27th January, 1927) ?

(b) Have Government decided whether they would give free copies of the Report to the Members of the Assembly (*vide* Government reply to the supplementary question to the above question) ?

The Honourable Sir Bhupendra Nath Mitra : (a) Yes ; a copy was placed in the Council House Library last February.

(b) The matter was given due consideration and it was found that the supply of the requisite number of copies to Members of the Assembly would necessitate reprinting the Report in India. As the cost of this would have been considerable, and as a copy is available in the Library for the use of Members who wish to consult it (and more can be supplied, if necessary), it was thought unnecessary to incur expenditure in having the Report reprinted.

SUMMARIES OF THE SPEECHES OF REPRESENTATIVES OF INDIA AT THE RECENT IMPERIAL CONFERENCE.

276. \*Mr. B. P. Naidu (on behalf of Khan Bahadur Sarfaraz Hussain Khan) : (a) Will Government please state if they have received copies of the full texts or of official summaries of the speeches of the representatives of India at the recent Imperial Conference ?

(b) If not, by what time do they expect to receive them ?

The Honourable Mr. J. Crerar : (a) and (b). The answer is in the affirmative. A copy of the full texts of the speeches made at the Conference has been placed in the Library of the House.

CANDIDATES FROM BIHAR AND ORISSA AT THE EXAMINATION FOR THE RECRUITMENT OF ACCOUNTANTS FOR RAILWAY AUDIT OFFICERS.

277. \*Mr. B. P. Naidu (on behalf of Khan Bahadur Sarfaraz Hussain Khan) : (a) Will Government please state how many candidates from the Province of Bihar and Orissa appeared at the examination for the recruitment of accountants for Railway Audit Officers under the Accountant General, Railways, held in 1925 and 1926, respectively ?

(b) Will Government also please state how many out of the men appointed to the Service in the above Examinations were residents of the province of Bihar and Orissa ?

(c) What is the total number of Accountants in the Railway Audit Offices under the Accountant General, Railways, and how many out of them are residents of the province of Bihar and Orissa ?

The Honourable Sir Basil Blackett : (a) 3 in 1925 and 2 in 1926.

(b) None. The examination is a competitive one.

(c) The total number of Accountants in the offices in question is 123 and none of them is a resident of the Province of Bihar and Orissa.

## EXPENDITURE ON THE COUNCIL HOUSE AT NEW DELHI.

278. \***Mr. B. P. Naidu** (on behalf of Khan Bahadur Sarfaraz Hussain Khan) : (a) Will Government please state the amount of public money spent on the Council House at New Delhi up to March, 1927 ?

**The Honourable Sir Bhupendra Nath Mitra** : Rs. 73 lakhs.

## CONTRACTOR FOR PORTERS AT THE DELHI RAILWAY STATION.

279. \***Mr. N. M. Joshi** : (a) Will Government be pleased to state whether there is a licensed Contractor for porters on the railway station at Delhi ?

(b) Will they be pleased to state his name and antecedents ?

(c) Will they state whether he pays any fee for his licence and, if so, how much is the annual fee ?

(d) Will Government be pleased to state what fee the Contractor takes from the porters ?

(e) Is it a fact that he charges an initial fee of Rs. 8 ? If not, how much initial fee does he charge ?

(f) Will they please state whether besides the initial fee he also takes four annas a day from each porter ? If not, how much does he take daily ?

(g) Will Government be pleased to state whether the porters besides paying the Contractor have to make some daily payment to the Contractor's servants ?

(h) Are Government prepared to inquire into the matter through a special officer and place his report before the Advisory Committee ?

**Mr. A. A. L. Parsons** : (a) The reply is in the affirmative.

(b) **Mr. R. W. Egan**, late Station Superintendent, Delhi.

(c) The reply is in the negative.

(d), (e) and (f). A daily fee of annas four is charged per porter present, but no initial fee is charged. Each porter on joining pays a security deposit of Rs. 5 which is refunded when he leaves.

(g) The reply is in the negative.

(h) Government see no reason for an enquiry.

**Mr. N. M. Joshi** : May I ask the Honourable Member whether the taking of four annas from each porter in the Delhi station does not amount to making the passengers also pay more for the porters' charges ?

**Mr. A. A. L. Parsons** : I am not sure that it does so, Sir. In any case arrangements for carrying their luggage will cost something. I may add to the answer that I have already given that I have received demi-official information from the Agent that he is considering the possibility of controlling these coolies departmentally ; but the difficulty has been to discover any system which will be as effective in the interests of the passengers as the present system.



PROSCRIPTION OF *Forward* BY THE GOVERNMENT OF BURMA.

280. \*Mr. K. C. Roy : (1) Will Government be pleased to state whether it is a fact that the Government of Burma proscribed the *Forward* newspaper of Calcutta in that province ? If so, will Government be pleased to state the authority under which the Provincial Government acted ?

(2) Will Government be pleased to state the causes which led to the decision proscribing *Forward*, and place all correspondence in this connection on the Table ?

The Honourable Mr. J. Crerar : (1) The Government of Burma intercepted copies of the newspaper in question in exercise of their powers under section 26 of the Indian Post Office Act, 1898.

(2) I invite the Honourable Member's attention to the answer I gave on the 22nd August, 1927, to a similar question by Mr. Gaya Prasad Singh.

GRIEVANCES OF THE SUBORDINATE STAFF OF THE GREAT INDIAN PENINSULA RAILWAY.

281. \*Mr. N. C. Kelkar : Has the attention of Government been drawn to the letter of Mr. Zabwalla in the *Indian National Herald* of Bombay, dated the 9th July, 1927, relating to the meagre wages, unduly long hours of duty, and denial of leave to the Great Indian Peninsula Railway staff ? If so, will Government state, on what particular points, they do not regard the statement of Mr. Zabwalla as correct or accurate ? Further, with regard to the statements which they do not challenge, will Government state what action they propose to take to give relief to the staff concerned ?

Mr. A. A. L. Parsons : Government have seen the letter referred to. A memorandum dealing with the alleged grievances of the subordinate staff is being sent to the Honourable Member.

HOURS OF WORK OF EMPLOYEES OF STATE RAILWAYS.

282. \*Mr. N. C. Kelkar : Is it a fact that the Railway Board has made a rule that the attendance of no railway employee should exceed 60 hours per week ? Will Government state whether the rule is in force on all the State Railways ? If not, will Government state reasons ? Is it a fact that coaching clerks, ticket collectors and parcel clerks have to work in two shifts only, while signallers work in three shifts, per day ?

The Honourable Sir George Rainy : I would refer the Honourable Member to the reply given to question No. 151 put by Mr. N. M. Joshi in the present Session.

GRANT OF PRIVILEGE AND CASUAL LEAVE TO THE EMPLOYEES OF THE GREAT INDIAN PENINSULA RAILWAY.

283 \*Mr. N. C. Kelkar : Will Government state approximately in how many per cent. of applications for privilege and casual leave is the request for leave duly granted to the employees of the Great Indian Peninsula Railway ?

Mr. A. A. L. Parsons : Government have no information about a minor detail of this description.

GRANT OF A TIME-SCALE TO THE EMPLOYEES OF THE COMMERCIAL DEPARTMENT  
OF THE GREAT INDIAN PENINSULA RAILWAY.

284. \*Mr. N. C. Kelkar : Will Government state whether the employees in the Railway Commercial Department of the Great Indian Peninsula Railway get the advantages of any time-scale ? If not, will Government state the reasons for this adverse differentiation against the Commercial Department employees ?

Mr. A. A. L. Parsons : Time-scales of pay are in force in the offices of the Chief and Divisional Traffic Managers. As regards the station staff, no time-scale of pay has been introduced for the Commercial Department nor for any other Department. There is therefore no adverse differentiation against the Commercial Department employees.

PROVISION OF QUARTERS, OR GRANT OF A HOUSE RENT ALLOWANCE IN LIEU  
THEREOF, TO THE EMPLOYEES OF THE RAILWAY COMMERCIAL DEPARTMENT  
AT BOMBAY, KARACHI AND POONA.

285. \*Mr. N. C. Kelkar : Will Government state whether they intend making any provision for quarters, or payment of rent allowance in lieu thereof, to the employees of the Railway Commercial Department at Bombay, Karachi and Poona, as the Local Government has done for some of their employees ?

Mr. A. A. L. Parsons : An allowance on account of the high cost of living is made to such employees at Bombay and Karachi, but not at Poona. Under the rules, employees of the Commercial Department are not entitled to free quarters, as it is not essential that they should live near their work. No change in the existing practice is at present contemplated.

ABOLITION OF THE POSTS OF THREE INDIAN SUB-ASSISTANT STATION MASTERS  
AT POONA.

286. \*Mr. N. C. Kelkar : Is it a fact that posts of three Indian sub-assistant station masters at the Poona station on Rs. 85 were abolished, and new posts of three European assistant station masters were created on Rs. 345 per mensem ? Will Government state full particulars of the case ?

Mr. A. A. L. Parsons : In June last, Government sanctioned three posts of assistant station masters on a maximum pay of Rs. 345 per mensem each in lieu of three posts of sub-assistant station masters on Rs. 85 each for the new Poona and Ghorpuri stations as a result of the recommendations made in this behalf by a Committee appointed to consider the arrangements for working the joint stations, yards and sheds. The posts are not reserved for Europeans.

GRANT OF HOLIDAYS TO THE STAFF OF THE GREAT INDIAN PENINSULA RAILWAY.

287. \*Mr. N. C. Kelkar : Will Government state how many whole and how many half holidays are granted to the staff of the Great Indian Peninsula Railway in a year ?

Mr. A. A. L. Parsons : It would take a very considerable time and entail a great deal of labour to collect this information and Government do not consider that any useful purpose will be served thereby.

**GRANT OF A HOLIDAY ON THE HINDU NEW YEAR'S DAY TO THE HINDU EMPLOYEES IN THE AMMUNITION FACTORY AT KIRKEE.**

288. **Mr. N. C. Kelkar** : Will Government state what per cent. of the employees in the military factories at Kirkee (Poona) are Hindus ? And will Government state whether they are granted a holiday on the Hindu New Year's day ? Is it a fact that holidays are given on their New Year's day to Muhammadan employees and employees of other faiths ?

**Mr. G. M. Young** : 90 per cent. of the employees in the Ammunition Factory, Kirkee, are Hindus. The holidays allowed in all Ordnance Factories are those mentioned in section 25 of the Negotiable Instruments Act of 1881 and those notified by the Local Government in whose territories the factory is situated. The Bombay Government have notified the Parsi New Year's day, but not the Hindu nor the Muhammadan New Year's day, as a holiday in the current year.

**PROTECTIVE DUTY ON IMPORTED PAPER.**

289. **\*Mr. N. C. Kelkar** : (a) Is it a fact that according to the Paper Industry Protection Act of 1925, the one anna protective duty was intended to be levied against imported paper containing less than 65 per cent. of mechanical wood-pulp ?

(b) If so, is the provision still in force ? If not, will Government state the reasons which led to the departure from this provision ?

**The Honourable Sir Basil Blackett** : (a) The answer is in the affirmative.

(b) The provision is still in force and there has been no departure from it.

**LEVY OF A PROTECTIVE DUTY ON PAPER.**

290. **\*Mr. N. C. Kelkar** : (a) Is it a fact that ruling No. 1 of 1927 (Customs Department) was issued upon representations made by certain paper mills in India ?

(b) If the reply to (a) be in the negative, will Government state whether the ruling in question was issued by Government on representations of any other parties or whether it was issued *suo motu* ?

(c) Is it a fact that Government have under consideration a revision of the said ruling in such a way that the protective duty of one anna be levied only upon paper containing less than 65 per cent. mechanical wood-pulp of the weight of the fibre contents ?

(d) Will Government state the dates on which the said ruling was put into operation at Bombay, Karachi and Calcutta ?

(e) Will Government state whether they intend to refund the excess duty paid under protest or provisionally levied upon paper to which the revision, if any, of the ruling applies ?

**The Honourable Sir Basil Blackett** : (a) Yes.

(b) Does not arise.

(c) The matter was referred to the Tariff Board who have just reported.

(d) The new ruling was communicated by telegram to all the ports on the 3rd February, 1927.

(e) The answer is in the negative.

#### SHORT LEVY OF IMPORT DUTY AT BOMBAY.

291. \*Mr. N. C. Kelkar : Will Government state whether notices of claims for short levy of import duty under section 39 of the Sea Customs Act were issued at Bombay weeks after the clearance of consignments from the Customs Office ? If so, are not Government aware that the duty was levied upon goods which must in the ordinary course of business have been sold out ?

**The Honourable Sir Basil Blackett :** The Government have no information as regards the first part of the question. Section 39 of the Sea Customs Act leaves it open to the Customs Collector to claim duty that has been short-levied within three months from the date of the first assessment. This right was, however, waived in respect of consignments on which duty was paid before the date on which the ruling was received by the Customs officers.

The Government have no definite information, although the facts are probably as suggested.

#### CHEMICAL ANALYSIS OF PAPER.

292. \*Mr. N. C. Kelkar : (a) Will Government state what is the test, in force, at present at Bombay by which the percentage of fibre contents of paper is ascertained ? Also whether the same test applies at Karachi and Calcutta ?

(b) Will Government state whether they intend to prescribe and also publish a standard specified test for the guidance of all Customs Offices at various ports in India ?

(c) What is the average period taken by the Government Chemical Analyser to report on each sample submitted to him for analyses ?

(d) Will Government state whether the present Chemical Analysers of Government have the necessary qualifications for analysing paper ?

**The Honourable Sir Basil Blackett :** (a) The facts are stated in paragraph 9 of the Report of the Indian Tariff Board, dated the 13th July, 1927.

(b) The Government have recently recommended the adoption by Chemical Analysers of the method employed by the Calcutta Customs House, namely, the fibre-count method subject to correction by determination of ash and to check by the phloroglucinal test.

(c) The Government have no information.

(d) The answer is in the affirmative.

#### CHEMICAL ANALYSIS OF PAPER.

293. \*Mr. N. C. Kelkar : (a) Are not Government aware that importers of paper are put to a loss by reason of their having to hold over the sale of their paper goods pending the result of chemical analyses and final assessment of import duty on the same ?

(b) Are Government prepared to make arrangements for making chemical analyses of paper in their own Customs Office within 3 days from date of examination so as to avoid delay ?

**The Honourable Sir Basil Blackett :** (a) The Government have no specific information, but it is probably inevitable that the delay caused by chemical analyses, however unavoidable, should sometimes cause loss to merchants.

(b) It is not possible for Government to make arrangements for chemical analysis of paper in the Custom House except in those places in which there is a chemical laboratory in the Custom House itself ; but instructions have been issued to Collectors of Customs that no avoidable delay should be permitted to occur in making analyses of imported goods.

#### RECOMMENDATIONS OF THE ECONOMIC ENQUIRY COMMITTEE.

294. **\*Khan Bahadur Sarfaraz Hussain Khan :** (a) Will Government please state if they have received replies from all the Provincial Governments regarding the Economic Enquiry Committee, 1925 ?

(b) If they have, will they please state whether they have arrived at a decision regarding taking action on the recommendations of the Committee ?

**The Honourable Sir George Rainy :** I would refer the Honourable Member to the reply given by me to-day to questions Nos. 259 and 260 asked by Mr. Aney.

#### NUMBER OF INDIAN JUDGES OF HIGH COURTS.

295. **\*Khan Bahadur Sarfaraz Hussain Khan :** Will the Government be pleased to state the number of Indian Judges out of the total number of 89 High Court Judges and Chief Court Judges as shown in the statement laid on the table in reply to unstarred question No. 11 on the 31st January, 1927 ?

**The Honourable Mr. J. Orerar :** 40.

#### COLONISATION OF THE ANDAMANS BY MOPLAHS.

296. **\*Khan Bahadur Sarfaraz Hussain Khan :** (a) Is it a fact that a batch of Moplah convicts were recently brought to Malabar from the Andamans and taken about under police custody and made to persuade their own wives and children and the families of other Moplah convicts to migrate to the Islands ?

(b) If they have no information on the subject, will the Government please make enquiries from the Local Government and communicate the result to the House ?

**The Honourable Mr. J. Orerar :** (a) and (b). I understand that a party of Moplah convicts who voluntarily elected to settle in the Andamans were permitted by the Chief Commissioner to visit Malabar and to bring back their wives and families with them. These facilities were granted in pursuance of the undertaking given by Government in paragraph 10 (iv) of the Government of India, Home Department Resolution No. F-188/24-Jails, dated the 4th October, 1926, a copy of which I will give the Honourable Member. The suggestion that coercion was used is incorrect.

**AIRSHIP SERVICE BETWEEN ENGLAND AND INDIA *via* EGYPT.**

297. \***Khan Bahadur Sarfaraz Hussain Khan** : Will Government please state by what time the aerodrome at Karachi is expected to be completed and by what time the aeroplane service from Egypt to Karachi and the airship service from England to India *via* Egypt is expected to come into operation ?

**The Honourable Sir Bhupendra Nath Mitra** : (a) The Civil Aerodrome at Karachi is ready for use, and it is anticipated that the ancillary services, for which provision has been made, will be completed by the end of September, 1927.

(b) The Government are not, at present, in a position to say when the aeroplane service, which is now operating between Cairo and Basra, will be extended to Karachi.

(c) No information is available as to when the Airship Service from England to India will come into operation, nor is it likely that the experimental flights in this connection will take place before the end of the year 1928.

**APPOINTMENT OF MR. W. B. STAGGS AS AN OFFICIATING SUPERINTENDENT IN THE HOME DEPARTMENT.**

298. \***Khan Bahadur Sarfaraz Hussain Khan** : (a) Is it a fact that Mr. T. P. Roy, Superintendent, Home Department, was granted two months' leave with effect from the 17th May, 1927 ?

(b) Is it a fact that Mr. W. B. Staggs of the Imperial Secretariat Service was appointed to officiate as a Superintendent in the Home Department in place of Mr. T. P. Roy ?

(c) What are the qualifications of Mr. T. P. Roy and Mr. W. B. Staggs, respectively ?

(d) If (a) and (b) are facts, will Government please state if no Indian of the requisite qualifications was available in the Home Department, who could officiate for Mr. T. P. Roy during his absence on leave ?

**The Honourable Mr. J. Orerar** : (a) and (b). Yes.

(c) The qualifications of these officers for appointment as Superintendent are the records of their work in the Department.

(d) Mr. Staggs was the next senior assistant for promotion and fully qualified for the appointment. It might have been possible by ignoring the claims of seniority and merit to fill the appointment otherwise though I should mention that Mr. Staggs is a statutory native of India.

**NUMBER OF WAGONS ORDERED FOR RAILWAYS FROM 1919-20 TO THE 30TH OF SEPTEMBER, 1926.**

299. \***Khan Bahadur Sarfaraz Hussain Khan** : Will Government please state whether the orders for the wagons during the period 1919-20 to 30th of September, 1926, were placed in India or in England (*vide* supplementary question to starred question No. 129 and its reply) ?

Mr. A. A. L. Parsons : I lay on the table a statement giving the information required.

FIGURES OBTAINED FROM STATEMENTS FURNISHED BY RAILWAYS.

Statement showing place of manufacture of wagon orders placed by B. G. Railways during the years 1919-20 to 1926-27.

(All figures are in terms of 4-wheelers).

Year.	Foreign countries.		India.	
	General Service.	Special Service.	General Service.	Special Service.
1919-20 .. .. .	3,984	1,604	4,100	21
1920-21 .. .. .	4,880	461	1,258	1
1921-22 .. .. .	1,436	283	290	69
1922-23 .. .. .	5,667	787	333	9
1923-24 .. .. .	5,021	1,370	7	16
1924-25 .. .. .	4,859	629	2,715	..
1925-26 .. .. .	2,655	861	1,185	16
1926-27 .. .. .	484	498	3,094	13
Total .. .. .	28,986	6,493	12,982	145
	35,479		13,127	

Statement showing orders placed by Metre Gauge Railways during the years 1918-19 to 1926-27.

Year.	Foreign countries.		India.	
	General Service.	Special Service.	General Service.	Special Service.
1919-20 .. .. .	1,081	279	..	..
1920-21 .. .. .	716	22	264	..
1921-22 .. .. .	795	66	260	..
1922-23 .. .. .	2,524	408	..	..
1923-24 .. .. .	874	411	5	..
1924-25 .. .. .	1,544	148	..	..
1925-26 .. .. .	1,489	217	..	..
1926-27 .. .. .	1,368	618	..	..
Total .. .. .	10,391	2,169	519	..
	12,560		519	

Orders placed in March last are not included.

Foreign countries orders .. .. .	35,479	+12,560	=48,039	} In terms of 4-wheelers,
Indian orders .. .. .	13,127	+519	= 13,646	
Includes 5,000 American wagons .. .. .	..	..	61,685	

## LOCATION OF THE IMPERIAL LIBRARY.

300. \*Khan Bahadur Sarfaraz Hussain Khan : (a) With reference to the question of the location of Imperial Library and the Government reply to starred question No. 143, on the 31st January, 1927, will Government please state if they have arrived at a decision ?

(b) If so, will they please communicate the decision to the House ?

(c) If not, by what time are they likely to come to a decision on the subject ?

Mr. A. R. Dalal : (a) No.

(b) Does not arise.

(c) It is not possible to say definitely when a decision will be reached.

## PERIODS OF DETENTION OF THE BENGAL DETENUS UNDER THE BENGAL CRIMINAL LAW AMENDMENT ACT.

301. \*Khan Bahadur Sarfaraz Hussain Khan : (a) Will Government please state if they have now obtained the information regarding the periods of the detention of the Bengal detenus under the Bengal Criminal Law Amendment Act (*vide* the starred question No. 147 on the 31st January, 1927, with supplementary questions and replies) ?

(b) If so, will they please place the information before the House ?

(c) If not, by what time do they expect to obtain the information ?

The Honourable Mr. J. Orerar : I would refer the Honourable Member to the statement laid on the table by the Honourable Sir Alexander Muddiman on the 21st February last.

## RECOMMENDATIONS OF THE INDIAN SANDHURST COMMITTEE.

302. \*Khan Bahadur Sarfaraz Hussain Khan : (a) Will Government please state what action they propose to take regarding the recommendations made by the Indian Sandhurst Committee ?

(b) Do Government propose to give the House an opportunity to discuss the recommendations ?

Mr. G. M. Young : The Honourable Member is referred to the reply given to starred question No. 109.

## SALE OF PLOTS OF LAND ROUND ABOUT THE MOMBASSA LIGHT-HOUSE.

303. \*Khan Bahadur Sarfaraz Hussain Khan : (a) With regard to the sale of plots of land round about the Mombassa Light-house, will Government please state whether they have received the reply from the Colonial Government on the subject ?

(b) If so, will they please lay the report on the table ?

(c) If not, will they please state by what time they expect to get the reply (*vide* Government reply to supplementary question to starred question No. 65 on the 31st January, 1927) ?

Mr. G. S. Bajpai : (a) The reply given by Mr. Bhore to starred question No. 65 stated that Government were in communication with His



Majesty's Secretary of State for India, not the Colonial Government. This correspondence is still proceeding.

(b) Does not arise.

(c) It is not possible for me to say when this correspondence will be completed.

**CLAIMS OF INDIANS IN TANGANYIKA AGAINST THE *ex*-GERMAN COLONY.**

304. \***Khan Bahadur Sarfaraz Hussain Khan** : (a) With regard to the claims of Indians in Tanganyika against the *ex*-German Colony, will Government please state if their inquiries have been completed [*vide* Government reply to starred question No. 64 (b) on 31st January, 1927] ?

(b) If the inquiries have been completed, will they please communicate the results to the House ?

**Mr. W. T. M. Wright** : (a) and (b). The Honourable Member is referred to the reply given by Mr. L. Graham, to his starred question No. 1401 on the 21st March, 1927, in this Assembly.

It is understood that the settlement of the claims in question is proceeding satisfactorily, but no details of the individual claims and the settlements effected are available.

**RESULTS OF THE LAST ELECTIONS TO THE LEGISLATIVE ASSEMBLY.**

305. \***Khan Bahadur Sarfaraz Hussain Khan** : With regard to the results of the last elections to the Legislative Assembly, will Government please state if the information has been collected and placed in the Library (*vide* Government reply to starred questions Nos. 67, 117 and 118 on the 31st January, 1927) ?

**The Honourable Mr. J. Crerar** : Yes.

**GRANT OF ASSISTANCE TO SIR MOHAMMAD YOUSUF'S MARINE SCHOOL AT NOVA ISLAND, BOMBAY.**

306. \***Khan Bahadur Sarfaraz Hussain Khan** : (a) Is it a fact that the Indian Marine Committee of Inquiry spoke of Sir Mohammad Yousuf's Marine School at Nova Island, Bombay, in very high terms and that the question of giving it some kind of help is being considered by the Bombay Government ?

(b) If so, will Government please inquire and inform this House if the Bombay Government have arrived at any decision in the matter ?

**The Honourable Sir George Rainy** : The Indian Mercantile Marine Committee observed in their report that Sir Mohammad Yousuf's School is a good example of primary nautical schools. The question of the future management of the school and vesting it in a local Board of Governors was considered by the Government of Bombay in consultation with Sir Mohammad Yousuf, but had to be dropped as certain proposals made by Sir Mohammad Yousuf in this connection could not be accepted by the Local Government.

## HAJ COMMITTEES.

307. \*Khan Bahadur Sarfaraz Hussain Khan : (a) Will the Government be pleased to state if Haj Committees exist in all the provinces of British India ?

(b) If not, will they please state in which provinces they exist and in which they do not ?

Mr. G. S. Bajpai : (a) and (b). So far as the Government of India are aware there are Haj Committees in Bombay, Bengal, Bihar and Orissa, the United Provinces, the Central Provinces and Assam

## MOSQUE IN THE PILGRIMS CAMP, KARACHI.

308. \*Khan Bahadur Sarfaraz Hussain Khan : Will Government please state if they will have an inquiry made from the Protector of Pilgrims, whether there is any mosque within the premises of the Pilgrims' Camp, Karachi, and whether there is a real need of a mosque for the use of the pilgrims there ?

Mr. G. S. Bajpai : A mosque has been built in the Pilgrim Camp this year.

## REBATES ON STEAMER PASSAGES SECURED FOR GOVERNMENT OFFICIALS.

309. \*Khan Bahadur Sarfaraz Hussain Khan : Do Government receive any rebate on account of the passages they secure for Government officials (*vide* Government reply to supplementary question to starred question No. 114 on 31st January, 1927) *re* Government action against rise in P. and O. passenger fares ?

The Honourable Sir Basil Blackett : I would refer the Honourable Member to my reply to Mr. Sheepshanks' question No. 69 (a) on the 19th August, 1926.

## EXPENDITURE IN CONNECTION WITH INDIAN REPRESENTATIVES TO THE LAST IMPERIAL CONFERENCE.

310. \*Khan Bahadur Sarfaraz Hussain Khan : Will Government please state the expenses incurred in connexion with India's representatives to the last Imperial Conference and the names of the gentlemen who represented India ?

The Honourable Mr. J. Orerar : The expenditure incurred by the Government of India in connection with the last Imperial Conference was approximately Rs. 16,000. The representatives of India at this Conference were (1) the Secretary of State for India, (2) the Maharajahdiraj Bahadur of Burdwan, and (3) Sir D. T. Chadwick.

## MIGRATION OF THE FAMILIES OF MOPLAH CONVICTS TO THE ANDAMAN ISLANDS.

311. \*Khan Bahadur Sarfaraz Hussain Khan : (a) Will Government please state the number of Moplah convicts deported to the Andaman Islands ?

(b) Have Government issued any orders or instructions regarding the migration of the families of the convicts to the Islands ?

**The Honourable Mr. J. Crerar :** (a) 1,389 up to the 31st July, 1927.

(b) I would invite the Honourable Member's attention to paragraph 10 (iv) of the Government of India, Home Department Resolution No. F-188/24-Jails, dated the 4th October, 1926.

**REFUSAL OF PASSPORTS TO THE PROPOSED MEDICAL MISSION TO CHINA.**

312. **\*Mr. Gaya Prasad Singh :** Will Government kindly state if and why they have refused the necessary passports to the proposed Medical Mission to China ?

**The Honourable Mr. J. Crerar :** The Government of India after carefully considering the matter in consultation with His Majesty's Government found themselves unable to grant passports to the proposed Medical Mission to China. The reasons for this decision were communicated fully to the President of the All-India Volunteer Board in a letter, which has been published in the Press.

**ELECTION OF MEMBERS TO THE PANELS FOR THE STANDING COMMITTEES TO ADVISE ON SUBJECTS IN THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF INDUSTRIES AND LABOUR.**

**Mr. President :** I have to inform the Assembly that the number of candidates nominated for election to the panels for the Standing Committees to advise on subjects in the Department of Commerce and the Department of Industries and Labour is equal to the number required and therefore I announce that the following Members are declared to be duly elected :

*Department of Commerce.*

Mr. Ismail Khan.  
 Mr. Mukhtar Singh.  
 Maulvi Abdul Matin Chaudhury.  
 Mr. B. Das.  
 Mr. W. Alexander.  
 Mr. H. G. Cocke.  
 Haji Abdoola Haroon.  
 Mr. W. M. P. Ghulam Kadir Khan Dakhan.  
 Mr. D. K. Lahiri, Chaudhury.

*Department of Industries and Labour.*

Maulvi Abdul Matin Chaudhury.  
 Mr. N. M. Joshi.  
 Dr. B. S. Moonje.  
 Sir Hari Singh Gour.  
 Mr. W. S. Lamb.  
 Rao Bahadur M. C. Rajah.  
 Mr. K. Ahmed.  
 Khon Bahadur Haji Abdullah Haji Kasim.  
 Mr. Abdul Qadir Siddiqi.

## PETITIONS RELATING TO THE CHILDREN'S PROTECTION BILL.

**Secretary of the Assembly :** Sir, under Standing Order 78, I have to report that 72 petitions signed by 6,608 persons have been received relating to the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, which was introduced in the Legislative Assembly on the 28th March, 1927.

## THE INDIAN TARIFF (AMENDMENT) BILL.

**The Honourable Sir George Rainy** (Member for Commerce and Railways) : Sir, I beg to move that the Bill further to amend the Indian Tariff Act, 1894, be referred to a Select Committee consisting of Maulvi Muhammad Yakub, Mr. R. K. Shanmukham Chetty, Sir Victor Sassoon, Sir Purshotamdas Thakurdas, Mr. W. Stonehouse Lamb, Dr. A. Suhrawardy, Diwan Chaman Lal, Mr. N. M. Joshi, Raja Ghazanfar Ali Khan, Mr. C. Duraiswamy Aiyangar, Mr. Jamnadas M. Mehta, Mr. S. C. Mitra, Pandit Hirday Nath Kunzru, Munshi Iswar Saran, Mr. M. R. Jayakar, and the Mover ; and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five and that the Committee be instructed to report on or before the 31st August, 1927.

This Bill, Mr. President, is the second of the two Bills to amend the Indian Tariff Act which are connected with the cotton textile industry. In these circumstances I thought it might be convenient if the membership of the Select Committee in this case was identical with the membership of the Select Committee which has already been appointed by this House to consider the Bill to amend the Indian Tariff Act for the purpose of safeguarding the manufacture of cotton yarn in India. The names of the members which I have read out are, therefore, identical with the names of the Members appointed to the other Committee.

The primary object of this Bill, Mr. President, is to assist the cotton textile industry in the difficulties which it has at present to encounter by the removal or the reduction of customs duties. That is its primary object. At the same time it must also be regarded as an instalment of what is an essential part of the fiscal policy of the Government of India. This method of assisting industries by means of reducing or removing customs duties was considered by the Fiscal Commission and they refer to it in two or three places in their Report. As regards machinery they remarked that for the development of industries in general the free import of machinery was evidently desirable. They recognised that it might sometimes be desirable to encourage the manufacture of machinery in India, but they were of opinion that such encouragement should not as a rule be given by import duties. As regards raw materials, they said that the raw materials required for Indian industries should ordinarily be admitted free of duty. There might be instances in which it would be found necessary to protect by import duties the production of certain raw materials, but such cases should be comparatively rare seeing that raw materials are in general bulky in proportion to their value. The statements of the Fiscal Commission, which I have read, are accepted by the Government of India, and therefore the pro-

posals contained in this Bill, though directly and primarily intended to assist the cotton textile industry, are, as I have said, also an instalment of the policy which is the declared policy of the Government of India.

The Tariff Board, which enquired into the condition of the cotton textile industry, made the proposals on which this Bill is based. The Government of India, however, were not able to accept them precisely in the form in which they had been put forward. Honourable Members who have examined the Report will remember the Tariff Board gave two lists of mill stores. Those in the first list they proposed should be completely exempted from duty, while as regards the stores in the second list they proposed that the cotton mills should, if they imported them direct, be allowed to import them free of duty, while if they purchased them from stockists, they should subsequently receive a refund of the duty they have paid. As regards the first list, there is no particular difficulty. Of the articles enumerated in that list, which are dutiable at 15 per cent., all except one, I think, is included in the Bill which is before the House. But as regards the second list, the Government of India were unable to accept the recommendation of the Board in the precise form in which it was made. What the Board proposed was to revive an old arrangement which had been in force from 1896 to 1921 as regards the purchase of stores, and from 1916 to 1921 as regards the machinery purchased by the cotton mills. This arrangement was abolished in 1921 when the import duty on piece-goods was raised to 11 per cent. while the excise duty remained at 3½ per cent. Now there are certain minor difficulties about this arrangement. It is always a little difficult when special concessions of this kind are given—administrative difficulties of various kinds must occur, and probably if the arrangement had been revived it would have been necessary to employ a special staff. Also in view of the fact that some stores are made in India, precautions would have had to be taken to prevent the payment of a refund of the duty upon stores which had not been imported and which consequently could not have paid any import duty. These difficulties, however, would not necessarily have been decisive. The real difficulty was this. On what ground would it be possible for Government to discriminate between industry and industry and to prescribe that one industry should import free the materials and the machinery on which other industries had to pay duty? As long as the cotton excise duty was in existence there was a definite reason for differentiating in favour of the cotton textile industry in this matter, because that industry was subject to a disadvantage from which other industries were free. The special arrangement about the importation of stores was definitely a set-off to the excise duty. But now that the excise duty has been removed, that reason for a special concession no longer exists, and the Government of India could not find any valid grounds on which they could agree to differential treatment in favour of one industry which did not extend to all industries. At the same time they were impressed by the desirability of going as far as they could in the direction recommended by the Board in order to assist the cotton textile industry, and the view they took was this—that, although it was not legitimate to make a special concession to one industry which was denied to others, it was perfectly legitimate in giving effect to their declared policy of assisting all industries by the reduction or the removal of the duty on machinery and materials, to

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give precedence to those articles which were used chiefly in industries passing through a period of depression. They thought that on that basis a satisfactory solution could be arrived at, and it was on that basis that they examined the list of articles which the Tariff Board desired to be freed from duty. As I have already said, there was only one omission in list 1, but in list 2 there were several omissions. The first and most obvious test which was applied was whether the cotton textile industry was the principal consumer of the article concerned. It was obvious, I think, that when Government is sacrificing revenue and when the object of the sacrifice is to benefit a particular industry, it was necessary to see whether the benefit to the industry would be commensurate with the sacrifice of revenue. If we had to sacrifice 10 lakhs of revenue and the benefit to the cotton industry was only 1 lakh, that would obviously be a very weak case. I do not propose, it would obviously take much too much time to go through the list in detail, but I should like to give one concrete example which will illustrate the reasons why certain exclusions were made from the list. The first example I shall take is soda ash. An examination of the import figure showed that 58 per cent. of the imports occurred in Bengal and only 15 per cent. in Bombay.

In view of the concentration of cotton mills on the western side of India and also owing to the fact that a good many mills that are not exactly on the western side of India draw their supplies from Bombay, the fact that only 15 per cent. of the imports came to Bombay made it perfectly clear that the cotton textile industry was not the principal consumer. The sacrifice of revenue was over 7 lakhs and it did not seem probable that the benefit to the cotton mill industry would exceed a lakh or a lakh and a half.

Another instance that might be quoted is lubricating oil which quite clearly must be used by every industry in India and is also used by railways and motor cars : indeed it would be impossible to give an exhaustive enumeration of its users. That was a case again where the Government of India considered that the benefit would not be commensurate with the sacrifice. On the other hand the most important item in the whole list of the stores which we proposed to exempt from duty is the coal tar dyes. In that case Bombay takes 75 per cent. of the imports and I think from all the calculations I have been able to make, that in all probability three-fourths of the loss of revenue which is Rs. 25 lakhs, ought to accrue directly to the benefit of the cotton textile industry. I regard this particular proposal to remove the duty on coal tar dyes as of great importance. Last year, in 1926-27, the exports of piece-goods from India amounted to 197 million yards and of this quantity, 175 million yards were dyed and coloured goods. Obviously, if the cotton mills are relieved of the burden of the payment of duty on the dyes they use, that ought to be of material assistance to them in developing their export trade.

Another reason which influenced Government in excluding certain items is one which applies specially to the various chemicals from which the Tariff Board proposed to remove the import duty, namely, the question of protection. A representation was put in two or three years ago

on behalf of the chemical industry asking for the protection of the manufacture of chemicals. It has not yet been found possible to refer that matter to the Tariff Board and so long as it is pending it was considered that it would not be right to prejudice the position by removing the duties. There are several chemicals in the list—soda ash, caustic soda, epsom salts, zinc chloride, and magnesium chloride. Out of these five, only one finds a place in the Bill, namely, magnesium chloride, and it was retained on the ground that the circumstances connected with that particular chemical had already been examined by the Tariff Board who had recommended that protection should not be given. There were also certain minor reasons for excluding particular items, but with these I will not weary the House ; they are rather matters for the Select Committee.

As regards machinery, we start from the general principle that, in the interests of industry, machinery should be free from duty. But I should like to make it quite plain that that does not in any way rule out particular proposals either for encouraging the manufacture of particular kinds of machinery by means of an import duty, if that is the best way of doing it ; nor does it rule out proposals which may be necessary from time to time to remove a positive handicap on the manufacture of machinery. The case I am thinking of is this, where a particular kind of machinery is made in India and is not considered to require protection in the full sense, but a good case might sometimes be made out for what we call equality of tariff treatment, that is to say, the manufacture of the machinery should not be worse off than if there were no duty at all. It may happen at present ; it will still be so if the Bill is carried into law, that he may have to pay duty on the materials he uses, though there is no duty on the finished articles he makes. I should like to make it plain that proposals of that kind are not ruled out. There are two or three cases, I think, pending with the Tariff Board at present and they will no doubt make suitable recommendations stating what they consider the proper action to be taken. I emphasise this point because clearly it would not be right to ask this House to approve the general principle of the exemption of machinery from duty, unless that affirmation is properly qualified by the admission that there are circumstances in which it may be necessary to impose a duty on machinery either for protective purposes or in order to secure equality of tariff treatment.

I think in the Resolution in which the decision of Government to remove the duty on certain stores and machinery was announced, it was stated that the sacrifice of revenue was likely to amount to Rs. 85 lakhs in a full year. There have been certain minor changes since then, but the net result remains very much the same and I do not think there is any material alteration in the total figure. As nearly as I can calculate, it seems probable that the benefit to the cotton textile industry may be expected to amount to about Rs. 42½ lakhs, that is, approximately half the sacrifice of revenue. In the case of the materials, as distinct from the machinery, about three-fourths of the sacrifice of revenue goes to the benefit of the textile industry. In the case of machinery the proportion is a good deal lower—I think not more than about one-fourth. That of course raised the question whether it was possible to discriminate between one kind of machinery and another and limit the concession, as far as possible, to the machinery used for the cotton textile industry. It was found, however, that this was not practicable. First of all, there is the

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objection in principle that it is very difficult to justify a proposal by which one industry is not to pay duty on its machinery while other industries do so. The other difficulty is a practical difficulty. The present definition of machinery in the Tariff Schedule is a general definition and without a prolonged inquiry it would have been impossible to specify sufficiently exactly for the guidance of customs officers the particular kinds of machinery from which it was proposed to remove the duty. For this reason it was decided that the removal of the duty must operate generally and that if the Tariff Board came forward with proposals for securing protection or equality of tariff treatment to particular kinds of machinery these must be considered subsequently.

Before I sit down, Mr. President, I should like to say something about one particular proposal, namely, the proposal to reduce the duty on artificial silk yarn 15 per cent. to  $7\frac{1}{2}$  per cent. During the course of the debate on Monday certain questions were asked and certain requests for information made. I should like to deal very briefly with them. One Member I think asked me where the suggestion to reduce the duty on artificial yarn originated. The answer, Mr. President, is that it originated with the Bombay Chamber of Commerce some 15 or 16 months ago, I think. When I was in Bombay in April, I discussed the proposal with the Committee of the Bombay Millowners' Association and found that they were entirely in favour of it. Another question that was put was where this artificial silk yarn was likely to come from. It appears from the figures that I have obtained that at present the bulk of the artificial silk yarn imported comes from Italy. Amongst the various countries, the United Kingdom comes after Italy, but supplies a much smaller quantity. In 1926-27 nearly four million pounds came from Italy and only about 650,000 pounds came from the United Kingdom. On the other hand, the piece-goods made from artificial silk and cotton mixed came mostly from the United Kingdom, in fact she was the largest supplier sending nearly 16 million yards, while Italy sent nearly 14 million yards. Now, the effect of the reduction of the duty will be to make it more possible for the handloom weavers and the cotton mills in India to manufacture these piece-goods made from artificial silk and cotton and to sell them in competition with what comes from abroad. The branch of the trade which is likely to benefit is the importation of yarn, and the great bulk of that trade is at present in the hands of Italy. On the other hand, the trade which to a certain extent may be reduced is the importation of piece-goods, of which the principal supplier at present is the United Kingdom, and I think these facts ought to be sufficient to dispel any suspicions on the part of the Honourable Member who asked for this information as to any sinister motive behind the Government proposal.

The figures may not be familiar to all the Members of the House, and I should like very briefly to give one or two in order to show the very rapid expansion in the trade in artificial silk yarn. In 1921-22 the quantity of such yarn imported was only 71,000 pounds, and in 1926-27 it had increased to  $5\frac{1}{2}$  million pounds. During the same period the average value per pound had fallen from about Rs.  $6\frac{1}{2}$  to Rs.  $1\frac{1}{2}$ . I think one Member in the course of the discussion expressed apprehension lest the reduction of this duty might interfere with the silk industry in India. Perhaps the



name "artificial" silk is an unfortunate name, because it is apt to suggest ideas which are not really in accordance with the facts. Artificial silk yarn, when it was first introduced, was undoubtedly very expensive—it was almost as expensive as real silk and the two were regarded as comparable, and I believe on its first introduction it did affect the sale of silk yarn; but since then the circumstances have completely changed. According to the trade returns in 1926-27, the average value of the real silk yarn which was imported was Rs. 5½ a pound, whereas the average value of the artificial silk yarn was Rs. 1½ per pound. In these circumstances, it is quite obvious that when the price of artificial silk yarn is comparable to the price of cotton yarn, a reduction of 7½ per cent. in the duty will make no appreciable difference, because the present price of artificial silk yarn is only about one-third of the price of silk yarn. In these circumstances, if it is going to displace silk, it will do so in any case.

I will not weary the House, Mr. President, by dilating on the matter further, but I think I had better make one point plain before I sit down, and it is this, that in asking the House to refer this Bill to the Select Committee, we undoubtedly ask them to affirm the general principle that machinery and the materials of industry should, as far as possible, be free from duty. But we do so subject to the reservations I have already indicated that for particular classes of machinery or for particular materials, it may be in the interests of the country that they should be subject to an import duty. Also I do not ask the House to pronounce finally upon any one item amongst the various proposals included in the Bill. It would obviously be unreasonable to do that. The question of particular items must clearly be left to the Select Committee.

Sir, I move the motion that stands in my name.

**Pandit Madan Mohan Malaviya** (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : Sir, I find myself in a difficult position in dealing with this motion. I do not wish to oppose the reference of the Bill to the Select Committee, and yet I feel that I am asked to agree to this proposal under circumstances which are somewhat unfair to us, Members of the House, in that we are not given an opportunity to discuss the proposals of the Tariff Board as a whole before being called upon to support the particular course, the Government have decided to adopt.

(At this stage Mr. President vacated the Chair which was taken by Mr. Deputy President, Maulvi Muhammad Yakub.)

This question, Sir, of affording protection to industries is a very important one. It either implies the imposition of a burden upon the consumer or it involves the sacrifice of revenue to Government. In either case, it is a matter of serious concern to the Assembly, and I submit that when the Government received the Report of the Tariff Board, the proper procedure would have been for them to bring the recommendations of the Tariff Board before this House or to give this House an opportunity to discuss those proposals, and after hearing the views of this House on those proposals to decide what particular proposals to adopt for legislation. Particularly, so, I submit, should this be the course of action when the Government do not accept the proposals of the Tariff Board, as a whole, as they have not accepted them in the matter of the tax on yarn and cloth. On another occasion, namely, the occasion of the Steel Protection Bill, Government agreed to widen the scope of the Bill and gave the House an opportunity to put in amendments which were not strictly within the limits of the Bill. When the Bill to

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safeguard the manufacture of yarn came up, the Honourable Member for Commerce did not think it fit to agree to such a widening of the scope of the discussion. I do not plead for it so far as the particular measure before us is concerned. But the Honourable Member will recognise, and the House will recognise, that this Assembly is put in a rather awkward position. The Tariff Board discussed the question of how the cotton textile industry should be helped. They suggested certain methods. Government rejected their proposals and decided upon a course of their own. They have now introduced the present Bill in which they have adopted the recommendations of the Tariff Board. I submit that if the Government had done the Tariff Board and this Assembly the courtesy of putting their whole proposals before the Assembly and of allowing the House to express its opinion on them, probably the Honourable Member for Commerce would have carried the House with him to a greater extent than I fear he is able to do at present. I submit for the consideration of the Government and of the Honourable Member for Commerce whether it is not on the whole better for the Government and for the Tariff Board and for this Assembly that the recommendations of the Tariff Board, particularly when the Government do not accept them, should be laid before this Assembly in order that the Assembly may express its opinion on the various recommendations and thereby enable the Government to adopt a measure which may be likely to receive more support from public opinion as represented in this House than perhaps a measure introduced in the present manner, though no doubt decided upon with due care and deliberation by Government. With these observations I resume my seat. As I have said, I do not wish to oppose the reference to the Select Committee, but I hope the Government will consider the point I have raised.

**Mr. M. S. Sesha Ayyangar** (Madura and Ramnad *cum* Tinnevely : Non-Muhammadan Rural) : Sir, I feel thankful to the Honourable the Mover of this Bill for having given the House the information which I sought the other day. Sir, though he would ask me to dispel my illusions or my doubts or my suspicions regarding what underlay my question to him, I submit it does somewhat dispel my suspicion, no doubt ; but it does not remove the room for closer scrutiny of what I intended to bring to the consideration of the House. The other day, Sir, I was emphasising that nothing should be done under the Tariff Bill to injure or inconvenience the handloom industry. That industry in India is playing a very important part according to the finding of the Tariff Board. In 1925-26 the handloom industry produced 20 per cent. of the total cloth consumed in India. My business now is to invite the attention of the House and of the Members of the Select Committee to pay particular attention and see that in the Schedule to the present Bill things are brought in, which might facilitate the handloom industry by way of cheaply getting the materials for the handloom or the machinery that may be necessary. In fact, being a layman, I am not able to say from the Schedule attached to the Bill what machinery or materials might facilitate the handloom industry. I take it, Sir, however, that No. 18-B. would comprise a few of the articles which might be of help to the handloom industry. I would particularly request the Select Committee to canvass this matter more closely, and enlarge the list of articles, if need be, by facilitating the introduction of machinery or materials which might tend to make the

handloom industry improve ; and also to restrict or eliminate such article from the list, as we see in the Schedule, which might even indirectly have the remote effect of adversely affecting the handloom industry.

**The Honourable Sir George Rainy :** I propose, Mr. President, to reply very briefly. I listened, and I am sure every Member of the House must have listened, to the speech that was made by the Honourable Pandit in which he endeavoured—and it is hard not to be moved by the kindly tone of his voice and the obvious desire to win one's heart—to induce me, Mr. President, to agree to go back on the attitude of the Government as I explained it on Monday last. He said that it was not reasonable to ask the House to approve of these particular proposals which are contained in the Bill which we are now considering before the House had had an opportunity of considering the Tariff Board's proposals as a whole. Indeed he suggested that in the case of all Tariff reports the common procedure should be that before Government came to any final conclusions, they should take the Assembly into their confidence, have the whole thing discussed here and then, after that, make up their mind. Well, that would be rather a drastic revolution in the constitutional principles upon which we have hitherto proceeded as regards these matters. I think the correct constitutional principle is that the Executive Government must first make up its own mind what it proposes to do and subsequently place its proposals before the Legislature for its assent. Apart from that, there would be great practical difficulties in accepting the procedure proposed by the Honourable Pandit. One practical difficulty would be that if before Government came to its final conclusion it had to make all the proposals public in the Legislature, it might directly defeat the object that protection was intended because of the delay that would elapse before the first publication of the intention of the proposal to protect and the final decision actually to give protection and the passage into law of the Bills to give effect to it. That would be an obvious practical difficulty. Apart from that, the constitutional difficulty still remains and it is to my mind a very serious one. I do not think the Government of India could possibly put themselves in the position of divesting themselves of the responsibility of making up their own mind as to the proper course of action and then submitting it to the Legislature. As the Honourable Pandit has quoted the steel case I should like to point out that the circumstances are not similar. In the case of the Steel Industry (Protection) Bill there was general agreement in almost every quarter of the House that the protection to the steel industry ought to be continued, and in those circumstances Sir Charles Innes asked the House merely to affirm that much and to leave everything else to the Assembly. But in this case there is no such general agreement. As regards protection to cotton piece-goods general agreement does not exist, and in these circumstances it is impossible for the Government of India to leave the whole thing open after they have had the matter under their consideration for more than six months and have reviewed their original decisions. It is no longer possible for the Government of India to say that they have an open mind on the whole question. They have taken up their stand and to the decisions they have announced it will be necessary for them to adhere. In these circumstances, Mr. Deputy President, I fear it is impossible for me to yield to the persuasion of the Honourable Pandit, but I would like, if I may, to thank him for the very kindly and reasonable

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manner in which he put his request. He put it so nicely that it really annoys me to have to say no.

As regards the Honourable Member who has just sat down, I would like to draw attention to one item in the Schedule attached to the Bill. If he will look at item 8 in the Schedule, the first sub-item is 18-A. Under 18-A he will find, "fire or other power, not being manual or animal labour", but if he will look at item 18-B, he will find "The following textile machinery and apparatus by whatever power operated..." A very large number of the items in that list are such as are used in handlooms. Therefore the Bill does include definitely a number of items from which duty is being removed and the removal of that duty would directly benefit the handloom industry.

**Mr. M. S. Aney** (Berar Representative) : I move that the names of Mr. Sessa Ayyangar and Mr. Mukhtar Singh be added to the Select Committee.

**Mr. Deputy President** : The motion before the House is that the names of Mr. M. S. Sessa Ayyangar and Mr. Mukhtar Singh be added to the Select Committee.

**The Honourable Sir Basil Blackett** (Leader of the House) : May I point out that this Committee is the same in composition as the Committee that was set up to examine the duty on yarn and it will be inconvenient to have different Members on the two Committees, the essential points for discussion being the same. In these circumstances I would suggest that this motion be not pressed.

**Mr. M. S. Aney** : I do not think there is any point in the contention that the Committee should be identical, and the addition of two names is not going to make them more inconvenient. I do not therefore see the force of the opposition of the Honourable the Leader of the House.

(At this stage Mr. Deputy President vacated the Chair which was resumed by Mr. President.)

**Mr. President** : The Honourable Member from Berar has, I understand, proposed two more names to the list and the Leader of the House has opposed the proposal.

The question that I have to put is :

"That the names of Mr. M. S. Sessa Ayyangar and Mr. Mukhtar Singh be added to the list of the Select Committee."

The motion was negatived.

**Mr. President** : The question then is :

"That the Bill further to amend the Indian Tariff Act, 1894, be referred to a Select Committee consisting of Maulvi Muhammad Yakub, Mr. R. K. Shanmukham Chetty, Sir Victor Sassoon, Sir Purshotamdas Thakurdas, Mr. W. Stenhouse Lamb, Dr. A. Suhrawardy, Diwan Chaman Lall, Mr. N. M. Joshi, Raja Ghazanfar Ali Khan, Mr. C. Duraiswamy Aiyangar, Mr. Jamnadas M. Mehta, Mr. S. C. Mitra, Pandit Hirday Nath Kunzru, Munshi Iswar Saran, Mr. M. R. Jayakar, and the Mover; and that the number of members whose presence shall be necessary to constitute a meeting of the Committee be 5 and that the Committee be instructed to report on or before the 31st August, 1927."

The motion was adopted.

## THE CRIMINAL LAW AMENDMENT BILL.

**The Honourable Mr. J. Crerar** (Home Member) : Sir, I move for leave to introduce a Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose.

I do not propose at this stage, until Honourable Members have had an opportunity of reading at leisure the provisions of the Bill, to speak in any detail. I will only say this, that I hope, and confidently hope, that Honourable Members of this House will unanimously agree that this is an opportune and a desirable measure.

The motion was adopted.

**The Honourable Mr. J. Crerar** : Sir, I introduce the Bill.

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## THE BAMBOO PAPER INDUSTRY (PROTECTION) BILL.

**The Honourable Sir George Rainy** (Member for Commerce and Railways) : I rise to move that the Bill to amend the law relating to the fostering and development of the Bamboo Paper Industry in British India, be referred to a Select Committee consisting of Mr. Arthur Moore, Mr. N. C. Kelkar, Mr. K. C. Roy, Mr. K. C. Neogy, Mr. A. H. Ghuznavi, Mr. T. Prakasam, Pandit Nilakantha Das and the Mover ; and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee be 3 and that the Committee be instructed to report on or before the 31st August, 1927.

I said, Mr. President, when I introduced this Bill, that it dealt with three separate points. I will endeavour to make my more detailed explanation to-day as brief as I can. I should like to go back to the original enquiry into the paper industry that was conducted by the Tariff Board in 1924-25. Very early in that enquiry it became evident that some of the paper imported into India competed with Indian paper, some of it did not, and some of it was on the border line and it was difficult to say whether it did compete or not. At the beginning of the enquiry, the paper manufacturers asked for a protective duty upon "newsprint", that is to say, the kind of paper on which newspapers are commonly printed, and from the first there was strong opposition both from the importers and from the newspapers. What was said was that the mills in India could not, in fact, make paper which would compete in quality and price with the imported "newsprint". The paper made in the Indian mills was too expensive to compete, and therefore, however high the duty might be, they never would be able to supply the needs of the newspapers in a satisfactory manner. The reason why "newsprint" can be imported into India cheaply is because it contains a high percentage of what is called mechanical wood-pulp. Much the greater part of the world's paper is made from wood fibre, but part of the paper is made from what is known as chemical pulp. If you want a strong and satisfactory and durable paper, you have to use chemical pulp, because in the process of manufacture it is by means of the application of chemicals that the various substances are removed, which would be of no use to the paper and indeed would injure it. But when a cheap paper is required, it is not necessary to use exclusively chemical pulp and cheap paper contains a high percentage of what is called mechanical pulp which is produced by a grinding process. Paper of that kind does not last very long. It is not durable and it is a very weak paper.

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It is very easy to tear it. It is used chiefly for newspapers which are essentially ephemeral productions. The fact that it is not very strong and is not very durable does not matter.

The result of these early discussions at the beginning of the Tariff Board inquiry was that eventually the paper manufacturers withdrew their application. They said that they would not ask the Tariff Board to recommend that a protective duty should be put on imported "news-print". But there was never any question at all from the beginning to the end of the inquiry that the paper which contained no mechanical pulp—which is a much more expensive paper—there was no question at all that it did compete directly with the paper made in the Indian mills, and having taken part in that inquiry I can say that, from beginning to end, that point was never in dispute. If a paper contained no mechanical pulp at all, then it was a paper which competed with the paper made by the Indian mills and it ought to be subject to the protective duty. Well, it was believed when the Bamboo Paper Industry (Protection) Act was passed into law that the Act had been so drafted that paper containing no mechanical wood pulp would be subject to the protective duty. But some months ago the paper importers—or particular paper importing firms—put in a representation to the effect that, as the Act was worded, if a paper contained even 1 per cent. of mechanical wood pulp it was subject to the protective duty, but if it contained no mechanical wood pulp at all, then it was not subject to the protective duty but only to the revenue duty. Legal opinion was taken by the Government of India on this question and the opinion given was that the paper importers were right—that as the Act was actually worded there could be no question that paper which contained no mechanical wood pulp was not subject to the protective duty. The exact wording of the entry in the Tariff Schedule, I think, is "printing paper, all sorts, containing less than 65 per cent. mechanical wood pulp." It was held by lawyers that if it did not contain any pulp at all, then it did not contain less than 65 per cent. To a mathematical mind that sort of argument is difficult, but I have no doubt that the opinion we received was the correct opinion and the only possible opinion from the legal point of view. That was the situation with which the Government had to deal and they came quite clearly to their decision. In the first place we had to administer the law as it stood. We could not go behind the wording of the Act to the original intention. That would not have been permissible. We had to carry out the law as it stood. But the second part of the Government decision was this—that we could not possibly let that state of affairs continue. Legislation at the first opportunity would be necessary because what it meant was that the keystone of the protective arch having been removed the whole structure was in danger of collapse. The great bulk of the paper which was most likely to compete with the Indian mill paper was going to be admitted to the country, subject only to the revenue duty. Therefore, on the 1st of July last, the Government of India published a communiqué to the effect that they intended to legislate at the first opportunity, and also that they would legislate so as to give retrospective effect to the new provision which correctly declares the intention of the Legislature. That was necessary because otherwise even during the three or four months that might elapse before it was possible to amend the law, considerable damage might be done to the paper industry in India. I

should like to explain here that the Government of India would ordinarily be very averse, and I think the Legislature would take the same view, to giving retrospective effect to a fiscal measure of this kind. That is a step which can be justified only in entirely exceptional circumstances. But in this case I do think the circumstances are exceptional, because it means that if retrospective effect is not given, then a real injury will be inflicted on the industry and the policy deliberately adopted by the Legislature will not receive full effect.

I will turn now to the second point which is dealt with in this Bill. According to the provision in the Act the line between the paper which is subject to the protective duty and the paper which is not so subject is drawn at 65 per cent. of mechanical wood pulp. If it contains less than 65 per cent. the paper is subject to the protective duty. If it contains not less than 65 per cent. it is subject only to the revenue duty. Soon after the passing of the Act the question was raised whether this percentage, this 65 per cent., was to be calculated on the total weight of the paper or only on its fibre content. I may explain that printing paper, in addition to the wood fibre or grass fibre or bamboo fibre, or whatever it may be, which essentially is the paper, also contains what is known as loading or sizing which is necessary to give the paper a proper surface. China clay is very largely used for the purpose, and in extreme cases, the loading may be as much as 20 per cent. of the weight of the paper. Now, it makes a good deal of difference whether you calculate the percentage on the total weight of paper or only on the weight of fibre. Let us take as an illustrative case, a paper in which the loading amounts to as much as 15 per cent. of the total weight. Now, suppose mechanical wood pulp is 70 per cent. of the fibre content. In that case it would be less than 60 per cent. of the total weight, and therefore, the method by which you calculate the percentage will determine, in the case I have given, whether it is to be subject to the protective duty or not. Naturally in these circumstances the paper manufacturers said the percentage ought to be calculated on total weight because that brought more imported paper under the protective duty; and equally naturally the importers contended that it ought to be calculated on the fibre content only. When this question first came before the Central Board of Revenue they issued a ruling that the percentage should be calculated on the fibre content, basing themselves on what they believed to be the intention of the Tariff Board and on the practice of the trade so far as it could be ascertained. However, the question came up again at the end of 1926 and on this occasion it was thought necessary to take legal advice. Here again the legal opinion took us rather by surprise. The opinion given was that, as the entry in the Tariff Schedule was worded, there was no alternative but to calculate the percentage on the total weight; and accordingly the Government of India issued a fresh ruling giving effect to the legal advice we had received. In this case also it is quite clear the first thing the Government of India had to do was to administer the law as it stood. I think the matter was raised during a discussion possibly in March or the end of February last; I think it was Colonel Crawford who raised a question in this House and that Sir Charles Innes promised that the matter would be looked into, and that, if necessary, legislation would be undertaken. When the question was examined it was found that there was a difficulty in determining what the intention of the Legislature on this point really had been when it passed the Bamboo

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Paper Industry (Protection) Act. I was myself a member of the Tariff Board that inquired into that case, and in these circumstances I had my own views, but it was not clear that it could be demonstrated, so as to convince everybody, what the intention had been. In these circumstances it was thought advisable to refer the matter to the present Tariff Board and to ask them to make an inquiry, to take evidence from both sides and make recommendations. The Board's Report has been received and copies are in the hands of Members of the House. I will try to indicate what their view is and the reasons which have led them to it. They point out that this new ruling by which the percentage is calculated on the total weight of the paper has given rise to considerable diversity of practice in the different Customs Houses, and that of course is very undesirable. It has also made it necessary to analyse a large number of samples of imported paper in order to determine whether they do, or do not, contain less than 65 per cent. of mechanical wood pulp. Now it is not an easy matter to analyse paper accurately and that is a point which in the original inquiry was constantly pressed on the Tariff Board. They drew attention to these difficulties created by the new ruling, but rightly, I think, they do not attempt to lay too great a stress on it. Probably, in the course of time most of them could be overcome, and the procedure of the trade would be brought into conformity with the law as it is now interpreted. But they have definitely recommended that the law should be amended so that it may be made quite clear that the percentage ought to be calculated on the fibre content only and not on the total weight of paper as it is at present. The reasons why they have arrived at that recommendation deserve to be stated clearly. I should like to call the attention of the House, if I may, to a certain passage in the original Report of the Tariff Board submitted in 1925, and I will read it if I may :

'With a few exceptions,'

it was said :

"the important Indian newspapers are printed in 'newsprint', a kind of paper which contains about 70 per cent. of mechanical wood pulp. \* \* \* During the oral examination of the manufacturers at Simla we drew their attention pointedly to the strong objections which could be urged to the imposition of a protective duty on newsprint, and asked them to reconsider the matter. As a result, they informed us on the 30th of August, 1924, of their willingness that mechanical 'newsprint' should be exempted from an increase over its present duty, 'at any rate until such time as we can see what effect such differentiating may have on the paper trade generally'."

They suggested that the examination should extend to all paper containing more than a certain percentage (to be fixed by the Board) of mechanical wood pulp. Then the Report goes on :

"We have no doubt that the manufacturers were well advised in abandoning what was clearly an untenable claim. An increase of 10 per cent. in the duty on 'newsprint' would have been nugatory in its effect, for it would have failed to divert the trade to the Indian mills. Newspapers are ephemeral things, they do not require a strong and durable paper, and cheapness must be for them the primary consideration. It is impossible for the Indian mills using Indian materials to manufacture at a cost which would enable them to compete with imported 'newsprint'."

Now I think it will be quite clear from this passage that the Board's intention was to exclude from the scope of the protective duty the "newsprint" commonly imported into India. There is a second passage I should like to quote :

"We discussed with the representatives of important newspapers, with the manufacturers and with the Controller of Printing, Stationery and Stamps the question how



'newsprint' should be defined for tariff purposes. The information given by the newspapers shows that the 'newsprint' commonly imported contains about 70 per cent. of mechanical wood pulp and if paper containing this percentage remains subject to the existing duty, the newspapers will not be prejudiced. We enquired from the Controller whether, by chemical or other tests, the proportion of mechanical wood pulp contained in a given sample of paper could be ascertained accurately, and he said he was doubtful whether it could be done. We think it should be possible, however, to determine the proportion with an error not exceeding 5 per cent., and if the tests at present used in the Controller's Office are insufficient, more exact methods of estimating may be known in other countries. Our proposal is that all papers containing not less than 65 per cent. of mechanical wood pulp should remain subject to the present rates of duty on 'newsprint'."

I have quoted this passage, because I think that read in conjunction with the other passage previously quoted it makes it pretty clear what the intention of the Board was, namely, that the "newsprint" commonly imported into India should never be subject to the protective duty, and that the percentage was fixed in such a manner as to leave a margin, so that there would be no danger of "newsprint" being rendered liable to the protective duty owing to the difficulty of making an accurate analysis. If I am right, Mr. President, in the inference I have drawn as to the original intention of the Board, and if I may fairly, as I think we may, assume, that it was the intention of the Legislature to give effect to the views of the Tariff Board on that point, then it follows at once that the law ought to be amended, for under the law as it is interpreted at present, a considerable amount of "newsprint" which is being imported into India is being held liable to the protective duty. Before passing from this point I should like to draw attention to a passage in the Report of the present Tariff Board. They make a comparison between the price of "newsprint" after it has paid the protective duty and the price of the paper which the Indian mills would sell in competition with the imported "newsprint". The figures are these. After it has paid the protective duty the price of imported "newsprint" is not more than Rs. 440 a ton (whereas the price of the Indian paper which might be sold in competition is Rs. 500 a ton). These figures make it clear, I think, that the imposition of the protective duty on certain classes of "newsprint" can serve no useful purpose. The only result would be that newspapers would either have to pay more for their paper, but still continue to import it, or they will use a lower quality of imported paper. Neither of these results is a desirable result.

I come now to the last of the three points embodied in this Bill and I will deal with it as briefly as I can. The definition of "writing paper" in the Tariff Schedule is as follows:

"Writing paper, all sorts, including ruled or printed forms and account and manuscript books and the binding thereof."

The reference to ruled or printed forms and account and manuscript books was inserted, because if they were omitted, there was a danger that certain kinds of writing paper might escape the protective duty and the protection given to the Indian industry might thereby be rendered ineffective. But it was not observed when these words were inserted that on certain kinds of ruled and printed forms and account and manuscript books, the protective duty of one anna a pound might not only be less but sometimes a great deal less than the revenue duty of 15 per cent., and the unintended result has been to occasion a loss of revenue to Government which, it is believed, cannot be much less than a lakh of rupees a year. Now, there is no reason at all why, because the paper industry is protected the duty on

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articles of this kind should be less than what it would have been if all paper was subject to ordinary revenue duty. For this reason it is proposed in the Bill that in future the duty on writing paper should be one anna per pound or 15 per cent. *ad valorem* whichever is higher. Thus, if the paper is a comparatively cheap paper and competes with Indian paper, it will be subject to the protective duty. If it is an expensive paper—and at present in India the really expensive kinds of paper are not made—then the paper will automatically pay at the ordinary revenue rate of 15 per cent.

I have tried, Mr. President, in what I have said, to cover most of the important points. I will only add that in asking the House to refer the Bill to a Select Committee, I ask them to affirm the general principle that the defect in the law by which the protective policy as regards the paper industry has been endangered should be put right. I do not ask them to come to any final decision as regards the other two points. They are clearly both of them Select Committee points and I do not ask for any final decision as regards them; but I do ask that the House should accept the general principle that the law regarding the protection of the bamboo paper industry should be brought into a state in which it really gives effect to the policy of Government.

Sir, I move the motion which stands in my name. (Applause.)

**Mr. President :** The question is :

“ That the Bill to amend the law relating to the fostering and development of the Bamboo Paper Industry in British India, be referred to a Select Committee consisting of Mr. Arthur Moore, Mr. N. C. Kelkar, Mr. K. C. Roy, Mr. K. C. Neogy, Mr. A. H. Ghuznavi, Mr. T. Prakasam, Pandit Nilakantha Das and the Mover; and that the number of members whose presence shall be necessary to constitute a meeting of the Committee be 3 and that the Committee be instructed to report on or before the 31st August, 1927.”

The motion was adopted.

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### THE INDIAN DIVORCE (AMENDMENT) BILL.

**The Honourable Mr. J. Orerar** (Home Member) : Sir, I move that the Bill further to amend the Indian Divorce Act for a certain purpose, be taken into consideration.

This is a very limited measure and the explanation which has already been given by my predecessor at an earlier stage is one to which I have really very little to add. I will briefly remind the House what the purposes of this measure are.

Under the recently enacted Indian Colonial and Divorce Jurisdiction Act, rules have been passed in accordance with section 1 of that Act providing for the appointment in India of an officer to discharge the duties which in England are discharged by the King's Proctor. In so far as that Act is operative in respect of the appointment of such an officer in India it covers only the cases of British subjects domiciled in England or in Scotland. It is desirable that a similar provision should be made to permit of the appointment of an officer in India to deal with matrimonial

causes the parties to which are domiciled in India. That, Sir, is the brief and limited purpose of this Act. I move that the Bill be taken into consideration.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**The Honourable Mr. J. Crerar** : Sir, I beg to move that the Bill be passed.

The motion was adopted.

## THE CODE OF CIVIL PROCEDURE (SECOND APPEALS) BILL.

**The Honourable Mr. J. Crerar** (Home Member) : Sir, I beg to Move that the Bill further to amend the Code of Civil Procedure, 1908, for a certain purpose (Amendment of Order XLII in the First Schedule), be referred to a Select Committee consisting of Mr. K. C. Neogy, Sir Hari Singh Gour, Mr. C. Duraiswamy Aiyangar, Mr. N. C. Kelkar, Dr. A. Suhrawardy, Mian Muhammad Shah Nawaz, Mr. R. T. F. Kirk, Munshi Iswar Saran, Mr. H. Tonkinson, and the Mover ; and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.

This Bill has already been before the House. It is a technical matter, the issue involved being really a very narrow one, and I do not propose to detain the House at any length in making this motion. I merely observe that one of the recommendations of the Civil Justice Committee was intended to restrain in the interests of the more rapid and equitable administration of justice, appeals to the High Court in cases where such appeals do not appear really necessary for the execution of justice. The present Bill is very much more restricted in scope. As Honourable Members will observe, it deals only with appeals from concurrent judgment of the lower Courts. I do not think I need add to what I have said. I make the motion standing in my name.

**Mr. K. C. Neogy** (Dacca Division : Non-Muhammadan Rural) : Sir, among other things which my Honourable friend Mr. Crerar has received as a legacy from his predecessor in office, is a box of chocolates to be held in trust for Members of this House. It is a very expensive brand of chocolates, it cost us about 3 lakhs of rupees and was manufactured by that well-known firm of confectioners, the Civil Justice Committee. (Hear, hear.) The special instructions which Sir Alexander Muddiman must have given to his successor are, to be very careful about the distribution of these sweets ; not to give away too many at a time, so that the box might last as long as possible (Laughter), and the sweets are to be distributed only on special occasions. And to-day I think has

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been selected for the distribution of these sweets particularly because of the passing of the Criminal Law Amendment Bill yesterday.

Sir, it is rather difficult to be serious in dealing with the procedure Government have adopted in making their legislative proposals on the basis of the recommendations of the Civil Justice Committee. The Civil Justice Committee, among other things, made about 47 recommendations which require legislative enactment in order to be given effect to, and I suppose we have not got through more than seven or eight at the most ; so that if we go on at this rate it will take us about 10 or 12 years more to finish the legislation that will be required to give effect to all the recommendations of the Civil Justice Committee. I do not know, Sir, what particular reason has induced Government to adopt this dilatory procedure in regard to these recommendations. There are recommendations that require the amendment of particular Acts, for instance. I do not know, Sir, why Government have not put into one Bill all their proposals relating to the amendment of one particular Act. Other alternative methods could easily be conceived. For instance, some recommendations relate to the restriction of the right of appeal. Others again relate to the tightening up of execution proceedings. Why could not each class of these proceedings be put into one comprehensive Bill, in order to enable us on this side of the House to have a wider view of things and come to a decision relating to the principles underlying all those recommendations ? At Delhi, during last winter, this House rejected certain proposals which wanted to restrict the remedy which people have at present by way of preferring applications to the High Court under section 115 of the Civil Procedure Code. That was very properly rejected by the House. On the present occasion here is a proposal made by the Government which deserves no better treatment at the hands of this House. Sir, the recommendation of the Civil Justice Committee on which this Bill is supposed to be based, as has already been pointed out by the Honourable the Home Member, was a more comprehensive recommendation. I will place before the House what that recommendation exactly was. The Committee say :

“ We are of opinion that in every second appeal to the High Court the appellant should be required to deposit in Court, in cash or in Government promissory notes, a definite sum by way of security for the respondent's costs of the appeal.”

Later on, they went on to observe as follows :

“ We think that a very reasonable rule would be as follows—to require the appellant to deposit the amount of any costs awarded against him in the lower Courts plus the amount at which the respondent, if successful, could tax his pleader's fee under the High Court rules.”

On the present occasion what the Government propose to do is to require the appellant, only in certain classes of cases, to deposit the costs of the second appeal in the High Court. Sir, the deposit will be required only in cases where the appeal is preferred against concurrent judgments. This distinction, as I have already pointed out, was not made by the Civil Justice Committee because of the rather incongruous position in which that Committee would have found itself had it made that recommendation. Sir, the Bill was circulated for eliciting public opinion, as a result of the motion which was carried by this House about a year ago, in the last Assembly. And with what result ? The High

Courts of Calcutta, Bombay and the Punjab are opposed to this measure. The High Courts of the United Provinces, Burma and Bihar and Orissa support the Bill, and the Judges of the Madras High Court, the Oudh Chief Court and the Judicial Commissioners of the Central Provinces and of Sind are divided in their opinion. I do not propose to place all the opinions before this House, but from what I have already stated it will be seen that there is a very serious divergence of opinion in this matter.

And what is most remarkable is that the Calcutta High Court which is presided over, among others by Sir George Rankin, who was the Chairman of the Civil Justice Committee, has forwarded a very strong note opposing this measure. Sir, I find that the letter of the Calcutta High Court is dated the 26th January, 1927. Sir George Rankin had, I think, already assumed charge of the office of Chief Justice of that Court before this date, so that either Sir George Rankin differs from the Government of India in regard to this Bill or he has changed his opinion, because there is no indication in this letter that the Judges are divided in their opinion on the subject ; and my surmise is that Sir George Rankin must have seen, as I said, the incongruity of the position that the Government have taken up in this connection. One could have understood the original recommendation of the Civil Justice Committee being sought to be given effect to—making deposit a normal feature in every second appeal. But for the life of me, I cannot understand why Government want to make this distinction between concurrent judgments and dissenting judgments. Sir, there are no statistics available to show as to whether in the second appeals admitted by the High Courts under Order XLI, rule 11, the number of dismissals is greater in the case of appeals preferred against concurrent judgments than in the case of appeals preferred against dissenting judgments. The Civil Justice Committee did not think it necessary to inquire on this point because they did not seek to make any distinction between these two classes of cases. But I took the trouble of finding out as far as possible as to what the position was likely to be on this point. I took the latest complete volumes of the Indian Law Reports, of the Calcutta Series, the Madras Series and the Bombay Series, for the year 1926 ; and I found, taking the Calcutta High Court first, among the cases reported in that volume, 4 second appeals were allowed from concurrent judgments—that is to say, in four cases the concurrent judgments were set aside by the High Court ; and in four cases, again, the appeals preferred from concurrent judgments were dismissed by the High Court. So the number is quite equal. But there is another very interesting figure which I shall just give to the House which shows that among the other appeals that are reported in that volume, no less than six second appeals were dismissed—appeals which were from dissenting judgments. Therefore, Sir, if we can take these figures as a sort of rough guide for coming to a decision on this point, there does not seem any reason whatever for Government to distinguish between concurrent and dissenting judgments ; for we find that in the case of the Calcutta High Court perhaps a larger number of appeals were dismissed which were preferred from dissenting judgments. Now, I come to Bombay. There, I find that four second appeals were allowed from concurrent judgments, five were dismissed from concurrent judgments ; and five again were dismissed from dissenting judgments. In the case of Madras I was rather surprised at the very small number

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of second appeals reported in that volume, but I find that one appeal was allowed from concurrent judgments, two appeals were dismissed from concurrent judgments, and two appeals were dismissed from dissenting judgments. So, Sir, I maintain that if these figures can be accepted as any guide for the purpose of influencing our decision on the present question, there is absolutely no reason whatsoever for making a distinction between concurrent and dissenting judgments.

Now, Sir, I will place the opinion of the Calcutta High Court before this House. They say as follows :

“ The Hon'ble the Chief Justice and Judges do not share in the opinion expressed by the Committee that the absence of a restriction like this, spells injustice in many cases and Their Lordships are unable to subscribe to the view that it will improve the standard of justice. The Code of Civil Procedure was amended in 1908 after exhaustive inquiry and the only change which was introduced with a view to prevent frivolous second appeals was to give power to the Court to send for the record before a preliminary hearing under Order XLI, rule 11. After a second appeal is admitted after a preliminary hearing and after sending for the record, if necessary, it cannot be said that a respondent is called upon to answer a frivolous appeal, and Their Lordships do not think that a further difficulty should be placed in the way of the appellant by asking him to furnish security. In Their Lordships' opinion this will defeat the very object of the rule as it is only the rich litigant who will enjoy the luxury of a second appeal when a poor litigant will be debarred from presenting his appeal though admitted after a preliminary hearing. It may further be pointed out that this Court with a view to discourage frivolous second appeals has made it a practice to insist upon a hearing under Order XLI, rule 11.

In the opinion of the Hon'ble the Chief Justice and Judges, the provisions of Order XLI, rules 10 and 11, are ample for shutting out frivolous appeals and protecting the respondent in a fit case. Their Lordships are, therefore, not in favour of adopting this proposal.”

This opinion was submitted on the original proposal of the Civil Justice Committee. Now, the High Court on the present occasion have repeated their observations. They, moreover, say as follows :

“ The present proposals of the Government of India go very much further than the proposals of the Civil Justice Committee and in the opinion of the Hon'ble the Chief Justice and Judges ”

—be it remembered that Sir George Rankin, the Chief Justice, was the President of the Civil Justice Committee—

“ they unduly restrict the right of second appeal. Some of the objections to the present Bill are noticed in the speeches in the Legislative Assembly of Sir Hari Singh Gour and Diwan Bahadur T. Rangachariar, and Their Lordships are of opinion that no grounds whatsoever have been made out for revising the opinion given by this Court in the year 1925.”

Sir, what are the present checks on frivolous appeals so far as second appeals are concerned ? As the Calcutta High Court has pointed out, there is Order XLI, rule 10, which reads as follows :

“ The appellate Court may, in its discretion, either before the respondent is called upon to appear and answer or afterwards on the application of the respondent, demand from the appellant security for the costs of the appeal, or of the original suit, or both.”

Here ample discretion is vested in the High Court for requiring the security for costs to be given if Their Lordships think it necessary and desirable.

Then again, under Order XLI, rule 11 :

“ the appellate Court, after sending for the record if it thinks fit so to do, and after fixing a day for hearing the appellant or his pleader and hearing him accordingly if he appears on that day, may dismiss the appeal without sending notice to the Court from whose decree the appeal is preferred and without serving notice on the respondent or his pleader”.

Sir, I think I am right in saying that this practice has been universally adopted by all the High Courts and Chief Courts in India, that is to say, no second appeal is admitted all at once, and no respondent is called upon to put in appearance until and unless a preliminary hearing has been gone through, and the Judges have admitted the appeal on the grounds set out in the Civil Procedure Code. Therefore, it is, Sir, that I say that even the existing restrictions give ample scope for requiring security to be given and for dismissing frivolous appeals before the respondent is called upon to appear.

I forgot to refer to another observation which the Calcutta High Court made on a similar occasion previous to the Civil Justice Committee's inquiry, and which has a particular bearing on the present point. This is what the Calcutta High Court said :

“ It would be very inadvisable to make any distinction between judgments of affirmance and those of reversal. If a judge knows that a judgment of affirmance is not open to appeal, save under very particular conditions, such knowledge may be calculated to induce such affirmance rather than a reversal.”

Therefore, Sir, I want to submit to this House very strongly that if we are to pass this Bill we would be affecting the quality of justice that is administered in this country by holding out an inducement to the lower Courts, as the Calcutta High Court have observed, to pass judgments of affirmance rather than of reversal. It is a very serious thing which must weigh with this House.

Sir, before I conclude, I would cite the opinion of Mr. Justice Gokaran Nath Misra who has got a learned note on this point. I would make only a few quotations from his note. He says :

“ It is clear that notice is issued to the respondent only in those cases, where either the case obviously appears to a Judge of this Court as one involving a point of law or one which is deemed by him as a fairly arguable case. This in my opinion constitutes a sufficient check upon frivolous second appeals. When a Judge of this Court himself has admitted an appeal under Order XLI, rule 11, I do not see any further point in calling upon the appellant to deposit security for costs of the respondent. The appellant cannot in such a case be justly accused of harassing the respondent. If the appeal appears to be a frivolous one and the object of the appellant is found merely to harass the respondent, the Court in all likelihood will reject the appeal. I am of opinion that the subordinate judiciary in this country has not yet come up to that degree of judicial perfection, which may justify the taking away from the High Court of the salutary check which exists in their hands by revising the judgment of the lower Courts when they have gone wrong on a question of law. My experience is that in several cases I have found the judgment of the Judges hearing the first appeal to be unsatisfactory. I, therefore, consider it to be dangerous to curtail the right of the second appeal.”

Later on he says :

“ I have always been of opinion that one of the sources which give strength to the British Government in this country is the sense of security felt by the Indian public that ultimately justice will be done to their cases. Although I am quite anxious to see that frivolous litigations should be stopped, I am equally strong in my

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opinion that no attempt should be made to stop litigation which is just and fair and which a party resorts to in order to enforce his just rights."

I conclude by asking the House to remember the warning which this Honourable Judge has uttered.

The Assembly then adjourned for Lunch till a Quarter to Three of the Clock.

The Assembly re-assembled after Lunch at a Quarter to Three of the Clock, Mr. President in the Chair.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions : Non-Muhammadian) : I join with my Honourable friend, Mr. Neogy, in deprecating this piece-meal legislation. I expected after what we had said in the Delhi Session that, if the Government wished to formulate their recommendations on the Report of the Civil Justice Committee, they would, at any rate, take each Act as a whole and then come up to the House so that we may be able to see how the amendments proposed by the Government are interrelated and how they act and re-act upon the present statute law of the country. Instead of doing that, what the Government have been doing is to introduce into this House from time to time tiny Bills dealing with one or two topics dealt with by the Civil Justice Committee. However, we must take the Bill as we find it, and what do we find there? Honourable Members are aware that a similar Bill was before this House some time ago. They have now modified it, and I venture to submit that the modification has made it much worse than when the original Bill was introduced into this House. Let me point out to the Honourable occupants of the Treasury Benches how the Bill has deteriorated since its original draft. The Report of the Civil Justice Committee intended to cut down the right of second appeal and three proposals were before that Committee. One was to direct a frontal attack upon all second appeals and to provide that in all cases in which there is a concurrent finding of the two subordinate courts there should be no second appeal as of right, and that an application by way of leave must precede the filing of a regular second appeal. That was the first proposal. The second proposal was that in cases tried by the original courts there should be a bench of subordinate judges who should dispose of these appeals and the decisions of this bench should be final. Those were the frontal attacks directed against the right of second appeal. But there was a flank attack and an insidious one too. It is this, that the right of second appeal should be made conditional and contingent by providing certain obstacles, impediments in the way of the appellant, and the proposal before the House is one of those proposals. It proposes to place an impediment in the way of second appeals in cases where the judgments or the decisions of the original court and of the lower appellate court are concurrent. Now, I wish to ask Honourable Members one question. The judgments of the two courts may be concurrent, but the findings may not be concurrent. Take, for instance, a very simple case. The first court decides the case upon the merits. It goes to the lower appellate court, whom we shall call the District Judge. There the appeal is dismissed either because it was barred by limitation, or because it was filed



too late, or because the court-fees had not been paid, or because the appellant had made default by not appearing when he was called upon or upon grounds other than those taken by the first court. Now, the judgment of the appellate court would be a concurrent judgment, that is to say, the decree of the lower appellate court would be a concurrent decree, but the lower appellate court has either not gone into the merits of the case at all, or if it has, it may have reversed the findings of the trial Judge upon every point though it may still have confirmed his decree. In that case what is the remedy? No provision is made in the Bill as to what the unsuccessful appellant is to do before the High Court, except that he is to give security in the sufficient sum provided for it. That is the first point, and what is to become of the cross-appellant? Is he also to give security? If not, the poor appellant is doubly hit—his appeal is dismissed because he had not the money to deposit for security—and by his appeal he runs the risk of losing the little he may have got, because it gave the respondent a chance to turn the tables upon him.

Now take another case. Under the Code of Civil Procedure, section 100, there are three cases in which a second appeal is maintainable. The first is when the decision is "contrary to law or some usage having the force of law". In my subsequent reference to this clause I shall refer to it for compendiousness of expression as a second appeal on the ground of law. Then follow two very important clauses and I ask the Honourable Member to indulge me by listening to me as to what I have got to say about those clauses. The second ground upon which a second appeal is maintainable is "the decision having failed to determine some material issue of law or usage having the force of law". The third is a substantial error or defect in the procedure. Honourable Members who are conversant with legal procedure will bear me out that the third ground is often a very good ground for revision. Those are the three grounds upon which a second appeal is maintainable. Now what does the section say. The section says:

"Provided that the High Court may dispense with such security in any case in which it is of opinion that the decision from which the appeal is preferred is on the face of it contrary to law or some usage having the force of law."

In other words the High Court is given the discretion in cases falling under clause (a), that is to say, where the decision is contrary to law, but what about the other two clauses? Suppose the High Court finds that the decision falls under the provisions of clauses (b) and (c), and (c) as you will find is a much more serious defect in the trial of a case than either (a) or (b), because the ordinary procedure has not been followed in the trial of the cases. In those cases the High Court is given no discretion at all. The proviso excepts only clause (a) and not clauses (b) and (c). And this is not a novel argument. I addressed this House on the identical point on the last occasion and, if I may borrow the words of the Honourable the Home Member, my observations have been before the House since the last winter Session. How have they rectified matters and what answer have they got to give in regard to the serious defect which you have in this Bill? But that is not all. This Bill contains as many lines as there are defects and I shall make good my statement. First of all what is the present law? Sir, the present law has been in force from 1882. Honourable Members will remember the

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enactment of section 549 of the old Code of Civil Procedure, the much lamented Code of Civil Procedure in which we had consecutive sections. It is now Order XLI, Rule 10. It provides that if the respondent or would be respondent or the court *suo moto* desires that the appellant should furnish security for costs, the court may order accordingly, and I find throughout the Report of the Civil Justice Committee that there is no evidence led before that Committee, nor any finding arrived at upon such evidence, that the present enactment, which was only passed in 1908, has entailed any hardship upon the appellant or upon the respondent. The Civil Justice Committee was appointed not out of any solicitude to safeguard the interests of the respondent or of the appellant. It was appointed, as Honourable Members are aware, to curtail litigation and they have cut the Gordian knot by saying: 'You want us to cut down litigation. Well, we chop this thing off here, that thing off there and will truncate your procedure and there you are, we have cut down litigation'. That is not the way to deal with a question of this kind at all. We find in the Statement of Objects and Reasons unwonted solicitude expressed for a respondent, in order to protect the interests of the respondent. Now I beg to ask why should you not have said in plain language that the Bill was intended to cut down litigation or rather to cut down second appeals. That was the object of the Civil Justice Committee and you come here and trot out the philanthropic argument that this Bill is enacted in the interests of the respondent as if the respondent has not been able to take care of himself. Sir, while considering the case of a poor respondent, have you ever considered the case of a poor appellant? The Calcutta High Court and all other High Courts advert to this aspect of the question. Suppose a man is a poor man. He has gone to the first court and lost his case. He has probably spent his all in the first court and he files an appeal either by borrowing money or by pledging his chattels and goes to the High Court because he finds that the judgment passed by the trial court is in violation of every known rule of procedure. That is to say, he brings his case under section 100, clause (c). A very serious case as I have said, though in such a case the High Court interfere even in revision. What is he to do? The High Court says: "You are a poor man. I commiserate with you but the proviso does not give me the discretion at all. I have therefore to call upon you to pay up the respondent's costs." And if the respondent is a rich man and engages a senior counsel he goes to the High Court and says: "My costs in this case are so much." And the Court then calls upon the appellant to deposit those costs. If he is unable to do so the court must reject his appeal. Is that justice? Take another and still more important case. The Civil Justice Committee was appointed for the purpose of shortening litigation. Now, will the procedure you have prescribed shorten litigation? It will lengthen it. Let me show you why and how. First of all in every conceivable case counsel will be engaged for the appellant to bring his case under the proviso, and there will be argument at the Bar whether the case falls under the proviso or not. That is really hearing No. 1. Then there is the order passed that you shall give security. Then you go to the ministerial department,

and time is given for the purpose of finding security. Now if the respondent is obstructive, and many respondents are, he goes before the court and says : " This security is insufficient. The surety is a man of straw ". The case is then sent down to the lower court. Then he has to certify that the security is a good one. But even if he is a good surety your Bill requires that he should have ready cash. He may be a good security without being able to produce the cash or Government securities that you demand as a deposit. I think perhaps this Bill is inspired by the Finance Department seeing that their recent flotation has not been quite the success they expected it to be and they probably want litigants to purchase and invest their money in Government securities. But what is the object of it all ? I cannot understand. Do you expect a poor rustic of the countryside to give you either cash or Government securities ? He will probably have to sell his bullocks and his plough before he is able to pay cash into a court of justice. Surely, Sir, such a law can only be conceived on the Olympian heights of Simla ; it could not be conceived by those who live and toil amongst the millions in the plains below. And this is the sort of law which it is proposed to enact. Then, Sir, look at the third point. Under the Code of Civil Procedure High Courts have made certain rules as regards the fixation of costs. You may pay your counsel any amount of money, but there is a fixed schedule of rates—sometimes a very inadequate one—upon which the court awards costs. But in this case when you go before the High Court there is no provision here that the security will be on the lines of the scheduled or certified costs. The proviso here is this : " such amount as the court thinks fit ". Now the Court has in each case to decide what is the amount which it considers fit. I do not know whether counsel would not say : " My Lord, this is an extremely important case. It deals with the right of way. It deals with injunction. It deals with my most valuable land. This may be a petty rent suit of Rs. 2, but the question involved is a very important question affecting as it does the whole of my estate ". Well the court has now to decide what is the cost which it thinks fit, and it says : " I have not made up my mind as to what would be the cost. I shall issue a notice upon the respondent *audi alteram partem*. That is the law which the Judges follow. And the Judges will never decide a case unless they have heard both sides of the question. Now I have told you that you have, first of all, a proviso through which every counsel worthy of his salt will try to struggle for the benefit of his client. You have secondly the question of security and the adequacy of it which has got to be inquired into. Then you have the third hearing on the merits of the case ; and as my friend, Mr. Neogy has pointed out, citing a judgment of the Calcutta High Court, when the High Court Judges find that concurrent judgments are let into the court through the very narrow door of the provisions of this Act, they would regard appellants' appeals more or less as an exception, and there would be a tendency on the part of District Judges to concur in the findings of the first court. Those are not my remarks, those are the observations made by the High Court. I therefore submit, what will be the ultimate result of this very short-sighted legislation ? Would it not lead to the deterioration of justice in the mofussil ? Would it not lead to the prolongation of litigation which it is your purpose to shorten ? And would it not lead to an unnecessary waste of time in having to hear this appeal in three and conceivably four stages

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when it is only heard now in two short stages ? There is, first of all, the examination of the case under Order XLI, rule 11. Is this a good case for a second appeal or not ? And if you find that it is a good case—and they have their rules of practice on the subject—then it is immediately set down without hearing the appellant for final hearing, and on that final hearing the case is disposed of one way or the other. That is the procedure, and what are you going to do ? You come up here and say : “ We wish to shorten the procedure ”—and the Honourable the Home Member has made no secret of the fact that it is his intention in spite of what has been said in the opening sentence of the Statement of Objects and Reasons. Now I ask him in all seriousness, does he think that in point of practice it would lead to the shortening of litigation ? I humbly submit that it will do nothing of the sort, and it would waste the time of the High Courts much more than it does under the present procedure.

Now, Sir, I always thought that the Government of India have a very strong argument which they use and use with good effect, namely, that all legislation must be *post facto*. First of all you must make out a *prima facie* case ; and if you once make out a *prima facie* case, then the whole machinery of the Government of India begins to grind. Now I wish to ask this question. Has the Honourable the Home Member collected any materials, has he got any evidence that the decree of the lower appellate court, or, for the matter of that, of the trial court, has caused any hardship in the matter of costs ? I wish to submit, Sir—and I have been practising at the Bar for nearly 35 years and I have never heard any complaint from litigants that they have been deprived of their costs, and whenever I have had complaints of that character, I went up immediately before the High Court and said : “ Sir, this is a case in which we want costs, ” and ordinarily the High Court would immediately issue notice and order the deposit of costs. It causes no trouble, and I wish to ask why do you wish to tighten the law ? How far have you found that the provisions of Order XLI, Rule 11 are inadequate ? Let the Judges of the High Court be my witness. What do the High Court say ? Is there a single High Court here in this compilation of opinions, is there a single High Court, that has expressed the opinion that apart from what the Civil Justice Committee have said, apart from the high prestige of the Government of India who have introduced this Bill, apart from *a priori* consideration, that there have been any cases of hardship or failure of justice in second appeals which call for the enactment of this provision ? Show me a single instance of any High Court having reported favourably on the Bill upon this question. My friend, the Honourable Mr. Neogy, has drawn attention to the opinions of the various High Courts on this question. He has referred to the opposition of the Calcutta and Bombay High Courts. I wish to add that the Rangoon High Court is equally opposed to this measure, and I draw the Honourable the Home Member's attention to the expression of their opinion at page 21 of this compilation and I acknowledge, Sir, with due humility that the reasons which I gave to this House have appealed to their Lordships of the Rangoon High Court; they say they are opposed to it and for the reasons which I submitted to the House on the last occasion. The Madras High Court—see page 20 of the compilation—are opposed to it. Look at the Judges who are opposed to it. They are all experienced Judges drawn from the Bar and who know what a huge sacrifice it is to a poor litigant to have to

carry his case to the High Court. You know, Sir, how expensive civil litigation is in this country. Up to a certain limit you have to pay 7½ per cent. in court-fees; and when one goes to the High Court and pays his court-fees, what does he get in return? He files his appeal and then he has to run this extremely difficult hurdle race in which he has to circumvent one hurdle after another and perhaps he will drop through sheer exhaustion before he reaches the final goal. If this is what you call the advancement of the cause of justice, I submit I am certainly not at one with you. Take the opinions of the Allahabad High Court at page 8. Five learned Judges are in favour of it, but the three learned Judges, all drawn from the Bar, are against it and they give very good reasons for it. The Lucknow Chief Court, my friend Mr. Neogy has referred to it, and I do not wish, therefore, to repeat his argument. So far, I have been only dealing with the judiciary. Let us not forget that there is such a thing as the Bar in India. What does the Calcutta Bar say? The Calcutta Bar Association have strongly protested against this measure and I submit the opinion of the Calcutta Bar counts. Honourable Members will find from page 8 the opinion of the Calcutta Bar Association and they are opposed to it, and almost all the Bar Associations consulted on this subject have expressed themselves strongly, and some of them vigorously, against this measure. Now, take the Chambers of Commerce. Are they in favour of it? They are against it. Let me give you the opinions of the Bombay Chamber of Commerce. The opinions are summarized at page 23. This is what they say:

“All the Bar Associations in Bombay are against the Bill. Of the commercial bodies consulted, the Chamber of Commerce, Bombay, and the Indian Merchants Chamber are against the Bill and the Bombay Presidency Trades Association and the Karachi Chamber of Commerce are in favour of it. The Advocate-General of Bombay is against it.”

So that you will see that I have now very briefly summarized the expert, legal and non-legal opinions on the subject. I venture to submit that I am within the mark in saying that the bulk of Indian public opinion, that of the Judges, that of the members of the Bar and of the commercial bodies, is against this measure. In the teeth of this overwhelming evidence that you have against you, do you feel justified in pressing this measure to a Select Committee and placing it upon the Statute-book? I ask you to reflect, to consider, and consider carefully, that you are not advancing the cause of justice. On the other hand, you are retarding the very cause which you and I have in view, namely, that there should be a satisfactory administration of civil justice in this country.

One more word, Sir, and I have done. In this short Bill we are told that we do not curtail the right of second appeal at all; we are merely providing for a safeguard. I have already said before and I wish to repeat it that the real underlying object of this Bill is to carry out the recommendation of the Civil Justice Committee. But the Civil Justice Committee themselves have pointed out at page 361 that “it is, of course, conceivable that the requirements of security might exclude a good appeal”. And they also refer to the poor appellant. Consequently, the recommendation that has been made by the Civil

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Justice Committee is not couched in such forceful terms as to justify the Government of India in taking the prompt action they have done upon their recommendation. I beg further to point out that the Chief Justice of Bengal, who was the President of the Civil Justice Committee, has now reconsidered the position if he was ever in favour of it. I venture to opine that probably there was always this mental reservation when he signed this Report because he was not quite sure that this was a salutary provision to be embodied in the Act of Legislature. Two conditions are embodied in this paragraph. One is about the poor men, and they say : " Yes, it is a case of hardship ", and the second is a case of shutting out good second appeals, and to these two objections adumbrated in the Report of the Civil Justice Committee I have pointed out many more to the Honourable Members here, the cumulative effect of which, I submit, is that I am not at all convinced that any case, much less a *prima facie* case, has been made out for the enactment of this measure.

**Mr. M. E. Jayakar** (Bombay City : Non-Muhammadan Urban) : Sir, I rise to oppose this Bill and I shall do so on the same grounds on which I had the misfortune of opposing another Bill during the Delhi Session, which sought to curtail the powers of the Bombay High Court under another section, namely, section 115 of the Civil Procedure Code. This is a similar Bill, which, looked at from another point of view, seeks to curtail the powers of the High Court under another section of the Civil Procedure Code relating to second appeals.

I must say, Sir, that I cannot congratulate the Government of India on having selected this new piece of legislation out of the box of chocolates, which my Honourable friend Mr. Neogy said had been handed down to the present Home Member as a legacy. I will add one more feature to that analogy and say, with great respect to the Honourable the Home Member, that he has taken out of this box of chocolates this time the most undelicious and pungent piece that he could have selected. What does this Bill propose to do ? I want Honourable Members to follow very carefully what it seeks to do. I oppose this Bill on the ground that it is an interference with the powers of the High Court which should be the last attempt that should be made in the present days by the Government of India. I do not mind stating frankly for whatever it may be worth, that the High Courts still retain that faith and confidence which the Indian litigant used to have at one time in the entire judiciary of British administration, and if the Government of India now make any attempt by piecemeal legislation to take away the powers of the High Court, one after another, under one section in one Session, and another section in another Session, then a time will come when the British administration of justice will become absolutely devoid of the confidence and faith which it ought to command in this country.

The second ground on which I oppose this measure is that it is absolutely unnecessary in the present circumstances to enact this measure. My reasons are that, if the motive of those who are bringing forward this Bill is to restrict " frivolous litigation "—to quote one of the phrases so fondly used by the Civil Justice Committee—our answer is that there are ample provisions in the Civil Procedure Code which have that effect. This part of my argument has already been referred to by the two learned

speakers who have preceded me and I do not therefore want to take a long time over it. Without being technical, may I invite the attention of Honourable Members, especially that of the Honourable the Home Member, that under the Civil Procedure Code, there are two very important safeguards relating to the admission of second appeals. As he must be aware, second appeals are only admitted in cases where there are points of law or of usages having the force of law. All questions of fact are excluded in second appeals. Second appeals are not allowed to be entertained on questions of fact. Therefore out of about one hundred appeals which are preferred, I should certainly think a very large percentage of appeals—the Honourable the Home Member has not given us any figures—but I should certainly think about 75 per cent. of the appeals really relate to facts and they are all excluded. What are left over are only those appeals which involve questions of law or usages having the force of law. Pure questions of law are allowed to be entertained in second appeals. That is one safeguard. The other safeguard, which is the result of an amendment introduced in recent years in the old Procedure Code and it is worth remembering, is that the High Court is given enough power in appropriate cases to require security for costs. This is exactly what this Bill proposes to do. Under the present Code the High Court is empowered to require security in cases where it comes to the conclusion that it is a frivolous appeal. That power is given to the High Court under the Civil Procedure Code, and for the information of my Honourable friend the Home Member I will repeat the exact words of the section :

“ An appellate court may in its discretion either before the respondent is called upon to appear or after on the application of the respondent demand from the appellants security for costs.”

This section is much wider than the section which the Honourable the Home Member is seeking to enact. The discretion given to the High Court for requiring costs under this section which already exists in the Procedure Code is in relation not only to the cost of the second appeal which the present Bill proposes to do, but the costs of the lower courts also. It refers to the costs of the original court, the 1st court of appeal as also of the second appeal. The Bill before us only speaks of the costs of the second appeal, the costs which will be incurred in the High Court. The power which the High Court enjoys at the present moment is with reference to the costs of all the courts, the first court, the second court and the High Court. The only difference is that under the present section the High Court has a very wide discretion. The High Court has the power to determine after hearing arguments whether it is a fit appeal in which they should exercise the power which has been given to them under Rule 10 of Order XLI, or whether they should not exercise the power. My Honourable friends will bear in mind that the section gives an absolute discretionary power to the High Court. The question is— and I want my Honourable friends to approach this Bill from that point of view— whether the time has come in India upon political, social or other grounds, in other words whether we have arrived at the stage of British administration in this country when this wise power of discretion so wisely given to the High Courts should be compulsorily taken away and the High Court should be, by the express words of the Statute, deprived of this power and discretion and compulsorily told that in every case they must require costs irrespective of the fact whether it is a fit case or not, whether the poor man will suffer, whether nice points of law are involved, and the

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litigant has a chance of success. All these nice considerations, which it is at present possible under the Procedure Code for the High Court to review, the present Bill makes impossible, and the question is whether the time has come in the history of British administration when this power should be taken away from the High Court which is the highest tribunal in the land under the present system. I submit, Sir, that the Honourable the Home Member is taking a false view of the situation in the country if he is under the impression that such a time has come in the administration of this country. I maintain, Sir, that what the patriotic Judge, Mr. Gokaran Nath Misra, said on this point, represents the truth. My Honourable friends have heard his opinion read out to them by Mr. Neogy. He maintains that the time has not yet come in the administration of British justice when the lower judiciary is so experienced, so free from bias, so free from misconceptions and prejudices, that the last resort of justice, namely, the High Court, should be deprived of this wise power and discretion which they enjoy. I entirely agree with that view. I have been at the Bar for a pretty long time, my practice being more or less confined to the appellate side; and I can say with confidence to the Honourable the Home Member as the result of my experience that if he insists on this measure going through, it will cause an amount of mischief and consternation which I ask the Government not to risk having regard to the issues at stake. I do maintain, Sir, that we must continue the old law. After all, who are our High Court judges, if I might ask the Honourable the Home Member? They are men drawn from the best part of the Bar itself, or from the Indian Civil Service, or from the subordinate judicial service—in all cases, men who come to the High Court after 20 or 25 years' experience of the work. Such men man the High Courts at the present moment. The power therefore which we give them under the Procedure Code is vested in very safe hands. No case has been made out by the Honourable the Home Member to show that this power has been abused or that any mischief has arisen or that any trouble has been caused, that the courts have been blocked by the hearing of empty appeals which keep the deserving man from justice. No such reasons aided by statistics have been given to us. The Honourable the Home Member made a very laconic and prudently short speech in which no arguments were advanced and no statistics given to us. We were merely asked on his personal assurance to accept the conclusions embodied in the Statute. I submit, Sir, that no case has been made out why we on the Opposition Benches should adopt this measure which mischievously seeks to take away from the High Court this judicious discretion, which has not been abused. If it is a frivolous appeal then the High Court will require costs; if it is not a frivolous appeal, the High Court will admit it. Why do we want to lay it down as a fiat going out from this House to the High Courts "No, you will not exercise that power; we want you in the name of justice in every case, however absurd it may be, to require the litigant to give security for the costs"? I submit, whatever the history of other countries may be of which I happen to be unaware, the time has not come in British India, of which I have some knowledge, when the High Courts should be denuded of this power.

Now, taking the opinions which have been collected in this case by the Government of India, I am very glad to see that in the Court where we have the privilege of practising, the Chief Justice and the Judges



are all against this measure. You know, Sir, what reputation the Bombay High Court enjoyed, especially during the regime of the Chief Justice who only retired a year ago. He had the reputation of being a very speedy dispenser of justice. Therefore, the opinion of the Bombay High Court, having regard to its antecedents and reputation, is entitled to special weight. Without tiring my Honourable friends with technicalities may I point out that it is the opinion of the Bombay High Court that the existing provisions of Order XLI, Rule 10, which I just read out to my Honourable friends, by which the High Court has the power in proper cases to require security for costs, are ample and adequate and that the present amendment is unnecessary? We cannot say that this is only the technical view of the lawyer. I am quite aware of the charge to which we three lawyers who have spoken against this Bill on this side render ourselves liable, that we are only speaking in the interests of our clients or possibly of ourselves; but we must take the odium of such a charge being levelled and warn the Government that the time has not yet come. It may come 15 or 20 years hence, when our judiciary is ripe, when their judgments are free from blemish as they are not at present. Such a stage may come in course of time when the Opposition Benches may allow such a measure to go through, it has not yet come, and that is the opinion of most of the important men whom Government have consulted. For the information of the European members who represent Chambers of Commerce, may I point out that the Bombay Chamber of Commerce, an entirely European body, and the Indian Merchants' Chamber, an Indian body of like character, express their opinion against this measure. One cannot say that they were actuated by any professional, personal or selfish bias. These are two important bodies representing commercial interests—men *prima facie* whose view would be in favour of speedy justice. The Bombay Chamber of Commerce is connected with litigants who come up in commercial cases and that body would be *prima facie* in favour of having a provision in the Statute-book which makes for speedy justice; and yet it is surprising that both the representative institutions of Bombay—the European Chamber of Commerce and the Indian Chamber of Commerce—were against this measure. The sense of the Bar as a whole is also against it. Time after time we find sprinkled over this collection the opinions of members of the Bar. I hold in my hand the opinion of a very esteemed member of the Bombay Bar who gave his view before the Civil Justice Committee: he said in effect “so far from agreeing with such restrictive measures, I think the time has come when the High Courts' powers instead of being curtailed should be widened”.

The measure which the Government of India are proposing to place on the Statute-book is a retrograde measure. The Civil Justice Committee went even further than the Government of India. If I may say so, theirs was a most retrograde suggestion—they wanted in every second appeal cost to be compulsorily secured, not only in second appeals with concurrent judgments, but in every second appeal. That means that every litigant who goes to the High Court will have to find the money in anticipation, however poor he may be, and however just and deserving his cause, because he has been denied justice in two courts below. No value should therefore be attached to this opinion of the Civil Justice Committee for they have taken a most retrograde view of this question and their opinion is no ground for accepting this measure. I submit, Sir, that the

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opinions of the Calcutta, Bombay and Punjab High Courts are entitled to greater weight than the view of the Civil Justice Committee.

To sum up in a few words, Government have the opinions of important Courts against this Bill—Bombay, Calcutta and the Punjab. Madras is equally divided. The sense of the Bar is against the Bill, so far as it has been given a chance of expressing its opinion. Commercial bodies of an important character, as in Bombay, are against it. In whose interests, then, are the Government of India bringing forward this measure at a time when the House has very little time to go into unimportant matters? One begins to wonder why the Government of India should have thought fit to bring forward such an empty measure in this excellent weather which makes us feel dismal and long for the sunshine of our native climes. It is surprising that the Government of India come up all this distance and to this great height, in quest of weather which they can have in abundance at many places down in the plains. They would have done well to have waited until we were back in the delightful weather of the Delhi Session, when Members are more cheerful and yielding. They would have been better advised to risk this measure at a more leisurely time when we had fairer weather, less rain and less chill. Having however introduced the Bill, they must take the risk of losing it. Sir, I wish to oppose the Bill.

**Mr. H. Tonkinson** (Burma : Nominated Official) : Sir, I am surprised, very much surprised, at the opposition which has been raised to this very simple measure. For the benefit of those Members of the House who may not have studied the provisions of the Bill. . . .

**Mr. R. K. Shanmukham Chetty** (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan Rural) : They are all on the other side.

**Mr. H. Tonkinson** : For the benefit of those Members of the House who may not have studied the provisions of the Bill, may I explain that under this Bill there will have been one original decision. In that decision of the court, the ultimate respondent has been successful. From that decision there has been a first appeal, and the ultimate respondent has again been successful ; that is to say, the respondent has been kept out of his rights as found by the two lower courts, and the principle underlying this Bill is that in such a case it is only right that if the respondent is to be placed in the position of again defending his case he should be given security for his costs. I am aware, Sir, of Rule 10 in Order XLI, upon which so much stress has been laid by my Honourable friend Mr. Jayakar. Under the rule, as he has explained to us, the appellate court may in its discretion demand from the appellant security for the costs of the appeal or for the original suit, or for both. Now the whole idea of the Civil Justice Committee was to substitute in the particular cases to which their proposals related an inflexible rule instead of a provision for discretion. But, Sir, I submit my Honourable friend Mr. Jayakar is not correct in stating that the powers of the High Court under Rule 10 of Order XLI will be withdrawn by this Bill. Those powers, Sir, will remain absolutely unaffected in regard to first appeals ; they will remain absolutely unaffected in regard to second appeals, except those second appeals which fall within the limits of the Bill now before us.

I should like now to refer to the figures given to us this morning by my Honourable friend Mr. Neogy. I have, Sir, the utmost respect for my Honourable friend's learning and for his industry. I am afraid, however, that the industry which he has exhibited in this case is not very fruitful. He has taken the number of second appeals which have been reported in the Law Reports of three High Courts. Of course, Sir, it is only a very exceptional second appeal which will be reported in the Law Reports. In the case of Calcutta, for the year 1926, he informed us as to what happened in regard to 14 cases. Now I have not the figures before me of the number of second appeals disposed of by the High Court of Calcutta in the year 1926. In the year 1922, however, 3,508 second appeals were disposed of. I ask, Sir, what value can be attached to figures as to what happened in respect of 0.4 per cent. of those second appeals.

**Sir Hari Singh Gour** : What percentages were admitted by the High Court ?

**Mr. H. Tonkinson** : I will come to that a little later. Now, Sir, let me turn to the appeal to authority which has been made by each of the three Members who have spoken. Considerable importance, Sir, has been attached to the opinion of the Calcutta High Court. I also have great respect for the views of the Calcutta High Court. In the present case, however, Sir, I submit that the opinion of the Calcutta High Court bears upon its face a reason why it should be rejected at once. The Calcutta High Court say that "the present proposals of the Government of India go very much further than the proposals of the Civil Justice Committee." My Honourable friend Mr. Jayakar a moment ago informed us that that is not the case. I am unable, Sir, to understand how the Calcutta High Court could have arrived at the opinion that the proposals of the Government of India in the present Bill go beyond those of the Civil Justice Committee. In these circumstances I submit that their opinion must, with the greatest respect, be rejected at once.

My Honourable friend Sir Hari Singh Gour referred to the opinion of the Allahabad High Court. He said the Allahabad High Court was opposed to the Bill.

**Sir Hari Singh Gour** : On a point of order, Sir. I said nothing of the kind.

**Mr. President** : Order, order. That is no point of order.

**Sir Hari Singh Gour** : It is a point of correction, Sir.

**Mr. President** : Order, order. Mr. Tonkinson.

**Mr. H. Tonkinson** : I noted at the time when the Honourable Member was making his remarks that that was what he said. Of course I accept his statement that he never intended to say that the Allahabad High Court were opposed to the Bill. As a matter of fact, Sir, the Registrar of the High Court has recorded the statement that all the Honourable Judges are in agreement in approving of the general principles of the Bill, that some of them wish to make it more stringent, and all the District Judges who have been consulted, according to the Registrar, approve of the Bill. My Honourable friend also referred to the opinions of the Rangoon High Court. He said that the Rangoon High Court was

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against the Bill. Now, Sir, what does the Registrar of the Rangoon High Court say? He says:

"I am directed to say that the Honourable Judges approve of the principle of the proposed Bill."

They approve of the principle. Then they go on to refer to certain criticisms made by Sir Hari Singh Gour, and those criticisms, I submit, are just of the character which can very well be considered in Select Committee. It has been suggested that the mass of opinion of the authorities consulted is opposed to this Bill. I really fail to understand how any one can arrive at that view. I do not think it is worth while reading out the opinions of the different authorities, but there is a considerable mass of opinion, I submit, in favour of the present Bill.

Another point which was made by my Honourable friend, Mr. Neogy, was that there are sufficient provisions in the existing law under Rules 10 and 11 of Order XLI to prevent frivolous second appeals. I submit that this opinion is inaccurate. In support of that I would like to draw attention to the statistics in regard to second appeals which are included in the letter from the Government of Bengal which is one of the opinions in this case. Let us take the year 1922. According to the figures given, there were 3,508 second appeals disposed of in that year. The total number dismissed under Rule 11 and also dismissed for non-prosecution was 1,405, that is to say, 40 per cent. 60 per cent. of the disposals were disposals after prosecution. Now, let us take the disposals after prosecution. There were 2,103 cases, and in 1,637 of these cases the decision of the lower court was confirmed.

**Mr. K. C. Neogy:** How many of them were from concurrent judgments?

**Mr. H. Tonkinson:** I have not got these figures.

**Mr. K. C. Neogy:** That is the point.

**Sir Hari Singh Gour:** Because we are dealing with concurrent judgments.

**Mr. H. Tonkinson:** But it is a fact that in 77 per cent. of the cases which were prosecuted the decision of the lower court was confirmed. I submit that there must be something wrong when the respondent is forced to defend his case a third time and when in such a large percentage of cases the decision of the lower court is confirmed.

**Sir Hari Singh Gour:** Does he not pay for it?

**Mr. H. Tonkinson:** The only other point to which I should like to refer is that which Sir Hari Singh Gour made when he said that the Civil Justice Committee's recommendation was not couched in imperative terms. Sir, the Civil Justice Committee said:

"We consider upon the whole that it would much improve the standard of justice attained, if an inflexible rule were laid down that a definite and ascertainable sum should in every case be deposited in court to answer the respondent's costs in case such costs be awarded."

"We are not in favour of this requirement being made discretionary because we think *firstly* that applications in the presence of the respondent to dispense with security would be constantly made and would be an additional harassment; *secondly*, that in order to avoid too prolonged inquiries judges would constantly dispense with it in whole or in part."

Sir, there is no doubt that the Civil Justice Committee came to the definite conclusion that a Bill of a much more stringent character than that now before the House was required. The present Bill is a simple Bill and as such I commend it to this House.

**Maulvi Muhammad Yakub** (Rohilkund and Kumaon Divisions : Muhammadan Rural) : I am really surprised that my Honourable friend Mr. Tonkinson should express surprise at the opposition which this Bill has evoked from this side of the House, but I am really, Sir, very much surprised that my friend Mr. Tonkinson should reject the opinion of a High Court like that of the Calcutta High Court in the way in which he has done. He has summarily rejected the valued opinion of the Calcutta High Court like a second appeal which contains no point of law and it is really a matter for surprise. After the forceful and very able speeches delivered by three Honourable Members on this side of the House, who have traversed all the grounds on which this Bill could be opposed, I was not required to say any more, but the measure is so pernicious that I owe it to myself not to give a silent vote in opposing the Bill and must make my vote a vocal one. This Bill, as has been pointed out just now by my Honourable friends, who have spoken on this side of the House, clearly takes away from aggrieved litigants the right of the second appeal, in the case of concurrent judgments ; the Bill provides that the appeal will not be admitted until security is filed, and the form of the security is so strict that for an ordinary man living in a village it would be impossible to furnish the security, which must be in cash or in Government promissory notes. I think it will be impossible for an ordinary villager in India to find these two kinds of securities in 90 cases out of 100. Therefore virtually the Bill means a negation of the right of filing a second appeal. Now, Sir, my Honourable friend Mr. Tonkinson tried to meet the arguments advanced on this side of the House, but I am sorry to say that he has hopelessly failed in meeting any of the arguments. He said that a successful respondent requires some security for being dragged to the High Court. As has been pointed out by the learned speakers on this side of the House, even now under the present Civil Procedure Code there are sufficient guarantees to secure the interests of a successful respondent. In the first place my Honourable friend must know that a second appeal to the High Court can only be filed when a question of law is involved ; this is one guarantee for a successful respondent. If no question of law is involved no second appeal can be filed and even if it is filed it will be summarily rejected. There is another guarantee. Even now the High Courts have got the power to demand securities if they consider that the appeal is a frivolous one, and again there is a provision in the Code of Civil Procedure that in certain cases security can be demanded, for instance, when the appellant is a woman or the appellant is a person who resides outside British India or is a man who has got no immoveable property in British India. So, when all these securities are to be found in the Code of Civil Procedure, it is preposterous to suggest that the present Bill is intended to safeguard the interests of respondents. I think the present Bill is a crooked measure which the members of the Civil Justice Committee have invented in order to clear the files of the courts. But I think the remedy which they have invented to clear the files is much worse than the malady itself. As things stood a man could expect to get justice though after a longer time ; but in this case it is a total denial of justice. That is why I say the remedy is much worse than the malady.

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My friend Mr. Tonkinson has referred to the opinions of certain Judges. Well, certainly the District Judges and the lower courts would welcome this Bill, because this Bill will deprive the High Courts of the opportunity of scrutinising their judgments and of finding out their capacity for administering justice ; because very few first appeals go to the High Courts, while the number of second appeals is very large and gives the High Court a chance of judging the ability of the lower courts. So, in order to escape that examination naturally the judges of the lower courts would welcome this Bill. But that is certainly not the criterion by which we should judge a measure of this kind.

I think nearly all the points against this Bill have been very ably traversed by the Members who have spoken on this side, and I will not waste any more time. There is only one thing more which I would say. This Bill does not provide for the method by which the successful appellant is to withdraw the money he has deposited. I think in the ordinary course he would have to put in an application through some vakil and apply for the withdrawal of the money. But in that process, although he has been successful in his appeal, I think half of the money he has deposited will be sunk in withdrawing it again from the High Court. It seems to me that it will be a great injustice that an appellant who has succeeded in his appeal should have to lose half of what he has deposited in getting it back. And what is the safeguard against this injustice ? No provision is made for it in this Bill. Probably a voucher will have to be prepared, and those members of the Bar, who have an experience know the worry involved in applying for a voucher and getting it prepared, and the money generally which the poor litigants will have to spend in getting their money back from the coffers of the Government. So, I submit on all counts this Bill is pernicious and it should never be allowed to stand on the Statute-book. With these remarks I strongly oppose the Bill.

**Mr. Varahagiri Venkata Jogiah** (Ganjam *cum* Vizagapatam : Non-Muhammadian Rural) : I rise, Sir, to oppose the Bill. The Bill proposes to protect the interests of respondents in second appeals by asking the appellants to deposit security in Government promissory notes or cash. I at first thought that I should support this Bill with an amendment to the effect that instead of security being asked to be deposited in cash or promissory notes, personal security be substituted. But, on second thoughts, I find the Code itself provides safeguards to the appellant and there is no need for such a Bill.

My Honourable friend, Mr. Jayakar, has already referred to the provisions of the Code especially Order XLI, Rule 10, where ample discretion has been given to the High Courts, to protect the interests of respondents in suitable cases. Therefore I do not think any provision of this sort is necessary.

It may be that the right of second appeals is sometimes abused and second appeals are filed in large numbers ; but the safe-guard proposed is not likely to reduce the number to an appreciable extent. If the appellant is a man of means, the demand of the proposed security will not deter him from ~~testing~~ <sup>testing</sup>, if he so wills, the respondent by depositing the costs, because he can afford to do so. It is the poor appellant having a

good case for appeal who suffers by this legislation. He would be required not only to meet the costs of the appeal but also to deposit cash by way of security. So that this Bill will not in the least help the poor appellant ; but, on the other hand, if at all, it helps the rich. The poor appellant will find it very difficult to meet both these demands, namely, the costs of the appeal and the deposit of security at one and the same time. This will be too much for him.

Further, the Bill says that the security should be demanded after the admission of the appeal. In Madras, at any rate, all second appeals come up before a single Judge in the first instance, and if he is against admitting a second appeal, it is then placed before a bench of two Judges, and if they, too, think that it ought to be rejected, it will be rejected. It may therefore be said that a second appeal is admitted, only if there is a fairly arguable point of law on behalf of the appellant. When second appeals are admitted, after such great scrutiny, and when they are found to be not frivolous, there is no reason why appellants should be penalized by being asked to deposit costs in cash or in Government promissory notes. Again, when the appeal is admitted, it means that the High Court has recognized the importance of the fact that the appeal involves an important question of law, and there is no reason why the public should be deprived of the decision of the highest court of the land on a point of law that is raised in the particular appeal. To insist on the appellant depositing security in such cases would therefore be felt as merely stifling second appeals. Already the litigant public are put to a very great strain on their resources by their being asked to pay a higher stamp duty than before on appeals, and this proposed legislation to deposit costs would add greatly to the hardships of the poor appellants. For these reasons, Sir, I oppose the Bill.

**Mr. Amar Nath Dutt** (Burdwan Division : Non-Muhammadian Rural) : Sir, I felt that we were in the midst of a silly season having nothing much of importance to do in the matter of legislation. In fact, Sir, when I received a copy of this Bill, I thought that the Government can provide us with ample work if they go on having Bills prepared on the basis of every page of the recommendations of the Civil Justice Committee for which they probably entertain views not shared by us. As for ourselves who practise in the mufassil courts in Bengal, we know what good it has brought not only to the litigant public but also to the members of the profession. But here of course I am not addressing this House from the standpoint of my profession. It is a matter of common knowledge that these recommendations of the Civil Justice Committee have led to the increase of bribery and corruption in the law courts. The majority of its recommendations are disapproved not only by the Bar, but by the public at large and one crowning effect of the Civil Justice Committee has been in the way of curtailing evidence, so that appellate courts may not come to a different conclusion from the records of the lower court. The recommendations of the Civil Justice Committee are to the effect that Judges need not take down the evidence in full in the form of a narrative as is provided in the Schedule to the Civil Procedure Code, but a mere memorandum of the substance of the evidence need be recorded and against that I have already given notice of introduction of a Bill in this House. Such is the nature of the recommendations of the Civil Justice Committee, and

[Mr. Amar Nath Dutt.]

probably the more the public views with disapprobation the recommendations of any Committee which the Government constitutes, the Members of the Treasury Benches think it necessary to give effect to the same by legislation. Of course, Sir, it is better, as my friends have suggested already, instead of such piecemeal legislation, to bring out a comprehensive legislation from the valuable recommendations of the Civil Justice Committee. Sir, although I do not entertain the same faith in the administration of justice by the High Courts in India as my friend Mr. Jayakar does, at the same time I may say this that they at least sometimes right wrongs committed by members of the subordinate judiciary who are not only ignorant of law but generally take a very perverse view of facts also. (*Honourable Members* : "No, not all".)

**Mr. President** : Such a sweeping remark on the judiciary is not permissible in this House.

**Mr. Amar Nath Dutt** : Sir, I think that everything that can be said against this Bill has been said by such able lawyers like my friend Sir Hari Singh Gour and Mr. Jayakar and, I think I should not waste the time of this House by dilating upon the reasons why we oppose this Bill. I also beg to oppose this Bill.

**Pandit Madan Mohan Malaviya** (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : Sir, there is only one point which I wish to draw the attention of the House to. I do not think that the criticism that the lower courts are generally or often ignorant and perverse is quite fair to the lower courts. I think subordinate courts in this country have established a very high reputation for efficiency as well as honesty. But, Sir, they are placed in a very difficult situation. Let me make my point clear. Under the provisions of this Bill the first court decides a case in which a point of law arises according to a ruling of the High Court to which it is subordinate. The case goes to a second court. That second court also decides the case according to the law laid down by the High Court to which it is subordinate. That is the rule. The subordinate court is bound to follow the ruling laid down on a question of law by its own High Court. That ruling may be opposed to the ruling of another High Court or two or three High Courts. The subordinate courts are bound still to follow the rulings of their own High Court. They dare not depart from them. If we lay down the rule proposed by Government let us see what the result will be. The first court decides a case according to the ruling of, say, the Allahabad High Court. The second court decides the case according to the same ruling ; and therefore when the matter goes before a High Court, there will be concurrent findings of two courts, and the High Court will be bound to apply the proposed rule. If the question is raised that there is a point of law involved in the appeals they must say "No". "There is on the face of it nothing contrary to law ; it is a concurrent judgment of two courts ; that is quite sufficient for deciding the point". Under the law which is now proposed, security of costs must be demanded. The learned pleader for the appellant pleads that there is a point of law and that other High Courts have differed from the view which the Allahabad High Court has taken, but the Judges will be debarred by this legislation which it is proposed to put on the Statute-book from entertaining that plea,



because the proviso says that the only case in which they can dispense with security is a case which on the face of it is contrary to law or some usage having the force of law. But, on the face of it, the decision is not contrary to law because it is consistent with the decision of the Allahabad High Court to which both the courts are subordinate. In such a case the result will be that even if there are two High Courts opposed to the view taken in the judgment of the lower court, the question cannot be raised in the High Court unless the appellant is able to deposit the security. That will be a great hardship. It means that when some case should come up in first appeal in which the same point should be raised, and, when that decision can be reviewed by the High Court, then only can a view of the law which is possibly incorrect be rectified. The decision of the Allahabad High Court in the case of Mata Din Kasaundhan was responsible for injustice in a number of cases. In a case like that the lower courts are bound to decide according to their own High Court's judgment and much injustice will be done. Therefore, without any fault on the part of the lower courts, injustice will be done if this proposed legislation is put on the Statute-book. I venture to think that my Honourable friends the Home Member and Mr. Tonkinson will agree with me that the law has been corrected in many cases in second appeals. Questions of law taken up in second appeals have been subjects of consideration by full benches of the High Courts. When there is a difference between one High Court and another, the matter is taken up in a full bench and the decision is reviewed. I do not remember the names of parties in many cases to-day, but I do remember that there have been many cases in which full benches of the High Courts have reviewed the decisions of a bench and accepted the view of other High Courts or confirmed their own views. I submit, therefore, that if this proposed legislation is put on the Statute-book, there will be a serious case of hardship in the case of those appellants who, having a perfectly good case, will be called upon to deposit securities. I submit, therefore, that the Honourable the Home Member and the Government should reconsider their decision ; and, in view of the strong opinion that has been expressed against this legislation, let the thing lie by until a stronger case for it can be presented to this Assembly.

**The Honourable Mr. J. Crerar :** Sir, this small measure has been debated at great length and I do not think that I should be contributing to the convenience of the House or the further elucidation of the measure if I were prolix in my reply. Most of the points of controversy which have been raised by Honourable and learned gentlemen on the other side of the House have been so pertinently and ably answered by Mr. Tonkinson that I do not think it is necessary to pursue them. What I wish to do is to put the issue as a plain and practical issue, relieved so far as possible of legal technicalities, in order to explain not only the intention of the measure itself but also the causes which actuated the Government of India in bringing it before the House for which they have been criticised, and not I think quite fairly criticised. Well, Sir, I am afraid that it cannot be denied that the processes of civil litigation in India are very slow, laborious and cumbersome. It was the desire of the Government of India to find some remedy for what is undoubtedly a grave cause of public inconvenience and sometimes of failure of justice. With that object, a Committee consisting of some very able and learned lawyers was appointed to consider the whole

[Mr. J. Crerar.]

question and to make recommendations. That Committee has made a large number of recommendations and the Government of India conceived it their duty, with regard to such of them as appeared to be acceptable and conducive to the ends for which they were intended—we conceived it our duty—as far as possible to enact them. I do not think Honourable gentlemen will complain of that part of my case. Well, this is one of the many recommendations made by the Civil Justice Committee and limited as its scope is, we considered it desirable that it should, at any rate, be submitted to the judgment of this House. It has been circulated and a large number of opinions have been collected on it. I agree with my Honourable friend Mr. Tonkinson that an impartial consideration of these opinions will lead to the conclusion that there is a preponderance of opinion in favour of this measure. When this measure was circulated for eliciting public opinion, we were quite aware that it would excite a considerable measure of contention and of controversy. But, I think, Honourable Members opposite, even if they dislike the Bill as it stands, will do us the justice to observe that we could not carry out the main intention of endeavouring to remedy urgent defects in the present administration of justice, if we were not prepared to accept a very considerable measure of controversy and of contention. If we were not prepared to do that we could not have effected anything whatever. There was a considerable amount of controversy and of contention elicited when this measure was issued for criticism and for opinion. There was a strong body of opinion, emanating from very learned authorities, against it and I admit that. The opinions of the dissident minority have been very ably and forcibly represented and supplemented in this House by Honourable and learned gentlemen opposite. But my contention is that among the opinions received, there was, though not perhaps a great preponderance of opinion, nevertheless there was a preponderance of opinion in favour of this measure. That, Sir, is the general position which I put before the House. I think in view of it, though Honourable and learned gentlemen opposite have somewhat hastily criticised the Government of India, they will be candid enough to admit that, though they may differ from us in their opinion on the merits of this particular measure, they have not justice on their side in complaining of the attitude of the Government of India in submitting this measure for their consideration.

There are only two points of detail which I now wish to take. Mr. Tonkinson was severely criticised by my Honourable friend the Deputy President because he had the temerity to dissent from an opinion of the Calcutta High Court. I will again invite the attention of the House to the fact that precisely the same opinion expressed by Mr. Tonkinson has been expressed by the Honourable and learned gentleman from Bombay ; so that if Mr. Tonkinson has erred in that respect—I am not prepared to admit that he did err—he has erred in good company. Then, Sir, I take, with the utmost deference, the point raised by Pandit Madan Mohan Malaviya that in certain circumstances appeals may conceivably arise on points of law which have not been decided by the High Court of the Province in which the original suit arose and in which there are conflicting decisions of other High Courts. In circumstances of that kind, inconvenience might no doubt be experienced from the difficulty of

getting that particular point decided by the High Court of the Province or the Presidency in which the original cause arose. I frankly admit that that is a possible case, but it would be very rare. We are attempting to meet the great majority of cases, and I venture to say that the kind of case which the Pandit has in mind would be in the category of those hard cases that make bad law.

Well, Sir, I have not attempted, because I think it is unnecessary, to pursue all the various controversial and technical issues of this case; but I think I have established a sufficiently good case to explain and to justify the Government of India's action in submitting this measure to the judgment of the Assembly and in asking the Assembly to proceed to refer it to a Select Committee, where many of the difficulties raised by Honourable and learned gentlemen opposite can be considered and possibly solutions for them can be found.

**Mr. President :** The question is :

“ That the Bill further to amend the Code of Civil Procedure, 1908, for a certain purpose, be referred to a Select Committee consisting of Mr. K. C. Neogy, Sir Hari Singh Gour, Mr. C. Duraiswami Aiyangar, Mr. N. C. Kelkar, Dr. A. Subrahmanyam, Mian Muhammad Shah Nawaz, Mr. R. T. F. Kirk, Munshi Iswar Saran, Mr. H. Tomkinson, 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—42.

Abdul Qaiyum, Nawab Sir Sahibzada.	Haigh, Mr. P. B.
Ahmad, Khan Bahadur Nasir-ud-din.	Irving, Mr. Miles.
Alexander, Mr. William.	Jawahir Singh, Sardar Bahadur Sardar.
Anwar-ul-Azim, Mr.	Kabul Singh Bahadur, Captain.
Ashrafuddin Ahmad, Khan Bahadur Nawabzada Sayid.	Keane, Mr. M.
Ayngar, Mr. V. K. Aravamudha.	Kirk, Mr. R. T. F.
Ayyangar, Rao Bahadur Narasimha Gopalaswami.	Lamb, Mr. W. S.
Bajpai, Mr. G. S.	Mitra, The Honourable Sir Bhupendra Nath.
Blackett, The Honourable Sir Basil.	Moore, Mr. Arthur.
Bray, Sir Denys.	Mukherjee, Mr. S. C.
Coatman, Mr. J.	Parsons, Mr. A. A. L.
Cosgrave, Mr. W. A.	Rainy, The Honourable Sir George.
Courtenay, Mr. R. H.	Rajah, Rao Bahadur M. C.
Crawford, Colonel J. D.	Roy, Mr. K. C.
Crerar, The Honourable Mr. J.	Sama, Mr. H. A.
Crofton, Mr. R. M.	Singh, Rai Bahadur S. N.
Dakhan, Mr. W. M. P. Ghulam Kadir Khan.	Sykes, Mr. E. F.
Dalal, Mr. A. B.	Tonkinson, Mr. H.
Dalal, Sardar Sir Bomanji.	Wright, Mr. W. T. M.
Donovan, Mr. J. T.	Yamin Khan, Mr. Muhammad.
Dunnett, Mr. J. M.	Young, Mr. G. M.

## NOES—47.

Abdullah Haji Kasim, Khan Bahadur Haji.	Kunzru, Pandit Hirday Natn.
Aiyangar, Mr. C. Duraiswamy.	Lahiri Chaudhury, Mr. Dhircndra Kanta
Aney, Mr. M. S.	Lajput Rai, Lala.
Ayyangar, Mr. M. S. Sessa.	Mulaviya, Pandit Madan Mohan.
Belvi, Mr. D. V.	Mehta, Mr. Jannadas M.
Bhargava, Pandit Thakur Das.	Mitra, Mr. Satyendra Chandra.
Chetty, Mr. E. K. Shanmukham.	Moonje, Dr. B. S.
Cocke, Mr. H. G.	Mukhtar Singh, Mr.
Das, Pandit Nilakantha.	Naidu, Mr. B. P.
Dutt, Mr. Amar Nath	Neogy, Mr. K. C.
Dutta, Mr. Srish Chandra.	Pandya, Mr. Vidya Sagar.
Farookhi, Mr. Abdul Latif Saheb.	Sarda, Rai Sahib Harbilas.
Gluznavi, Mr. A. D.	Sassoon, Sir Victor.
Goswami, Mr. T. C.	Shafee, Maulvi Mohammad.
Gour, Sir Hari Singh.	Shervani, Mr. T. A. K.
Haji, Mr. Sarabhai Nemchand.	Siddiqi, Mr. Abdul Qadir.
Ismail Khan, Mr.	Singh, Kumar Rananjaya.
Iswar Saran, Munshi.	Singh, Mr. Gaya Prasad.
Iyengar, Mr. A. Rangaswami.	Singh, Mr. Ram Narayan.
Iyengar, Mr. S. Srinivasa.	Sinha, Mr. Ganganand.
Jayakar, Mr. M. R.	Sinha, Mr. R. P.
Jogiah, Mr. Varahagiri Venkata.	Tok Kyi, U.
Kidwai, Mr. Rafi Ahmad.	Vishindas, Mr. Harchandrai.
	Yakub, Maulvi Muhammad.

The motion was negatived.

### THE REPEALING BILL.

**Mr. W. T. M. Wright** (Secretary, Legislative Department) : Sir, I rise to move that the Bill to repeal certain enactments be taken into consideration.

I do not think I need say much on this motion, because I have already explained the objects of this Bill the other day when it was introduced, and they are also contained in the Statement of Objects and Reasons. No amendments have been received, and I would ask the House to pass this very useful measure so that we may get on with the work in connection with the revision of the Statute-book.

Sir, I move the motion standing in my name.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions : Non-Muhammadian) : Sir, I do not wish to make a speech, but I just want to make a statement. Yesterday my measure was opposed by the Honourable the Home Member on the ground that I had combined two Bills into one. Will they now count up and say if these are not a hundred Bills lumped together ?

**Mr. President :** The question is :

“ That the Bill to repeal certain enactments be taken into consideration ”.

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**Mr. W. T. M. Wright :** Sir, I move that the Bill be passed.

The motion was adopted.

### THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

**The Honourable Mr. J. Crerar** (Home Member) : Sir, I move that the Bill to amend section 96 of the Code of Civil Procedure, 1908, for a certain purpose, be circulated for the purpose of eliciting opinions thereon.

Sir, the way of the reformer, even when his proposals are very modest, is never easy, and this is particularly so, apparently, if he proposes to amend the Civil Law. I confess that the attitude of the House on the measure I have just submitted to the House is not entirely encouraging, but I propose to proceed with this small measure because all that I am asking the House to do is to consent to its being circulated for the purpose of eliciting opinions thereon. The measure itself is even more restricted than that contained in my previous Bill. It relates only to cases in which, acting under section 47 of the Civil Procedure Code, an objection by a judgment debtor has been taken to the execution of a decree for money on the ground that the decretal amount has been paid in whole or in part.

It proposes to provide that in certain cases there should not be an appeal where the amount does not exceed Rs. 500 or in other cases where the amount does not exceed Rs. 200. Well, Sir, many of the general considerations which I alleged in moving my motion on the previous Bill apply also to this and I do not propose either to weary the House by reiteration or to attempt at this stage to go in close detail into the merits of the Bill. All that I ask for at this stage is that the House should consent to the Bill being circulated in order that opinions may be elicited upon it.

**Mr. C. Duraiswamy Aiyangar** (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, I have no objection to the Honourable the Home Member having this motion passed. It means nothing more than a little expenditure of postage and stationery and nothing else. But I am constrained to point out that the Honourable the Home Member often follows the practice of the materialistic age that the Scripture is looked at only from the outside and never looked into for its contents inside. Sir, he refers to the Civil Justice Committee's Report as his scripture, but I fail to see the least resemblance between what the Civil Justice Committee has reported on this matter and the measure which

[Mr. C. Duraiswamy Aiyangar.]

the Honourable Member has placed before this House. The Civil Justice Committee, in making some halting recommendation in regard to this matter, has distinctly pointed out that in the case of District Munsifs, against whose decision there should be no appeal, special authorisation should be made by the Local Government in specific cases. But what is provided for by this measure is that all courts exercising jurisdiction of over two thousand rupees shall *ipso facto* be entitled to the privilege of having their orders not tested even by first appeal. All along we have been discussing the question of how people are deprived of their right of second appeal and a good deal of enthusiasm and eloquence, perhaps disproportionate to the subject itself, was exhibited in this House when the previous motion was before us. On the other hand, this is a case in which there is an attempt to deprive the parties even of the privilege of a first appeal to the first appellate court. Perhaps they would say that there should not be an appeal even from Phillip drunk to Phillip sober. I do not really understand what kind of cases are contemplated by this measure. If only the Honourable the Home Member will look at Order XXI, rule 2, clause 3, of the Civil Procedure Code, he will find that there is an absolute prohibition there that payments which are not certified in court according to the provisions of rule Nos. 1 and 2 are not to be recognised by an executing court at all, and therefore, cases of payments or adjustments, if adjustments are also contemplated—so far as I am aware, perhaps that is not contemplated—actual cases of payment in discharge of a decree which will possibly arise for decision in the first court and which will necessitate an appeal to the first appellate court must be something more complicated than that which is contemplated or covered by Order XXI, Rule 2, clause 3. Therefore, Sir, to say that a party should not be allowed the privilege of having even a first appeal in cases of this kind is literally to give an autocratic power to courts. Secondly, I am unable to understand which courts are contemplated when the Bill provides that “no appeal shall lie from the decision of any Court the pecuniary limits of whose jurisdiction exceed two thousand rupees.” So far as I am conversant with the affairs of my Presidency—I do not know of other Presidencies—every Munsif’s court exercises jurisdiction up to three thousand rupees, and therefore there is no court which exercises jurisdiction below two thousand rupees. I do not therefore really see which courts are contemplated when it is stated here that in cases of courts exercising jurisdiction of less than two thousand rupees, there must be a specific designation made by the Local Government in this behalf. I am sure if this Bill is sent for circulation, those whose opinions are asked will be left to imagine what kinds of courts the Honourable the Home Member had in view in preparing this Bill, or if he is only its foster father, what his predecessor had in view in framing this Bill and they would go on drawing upon their imagination and probably come to panchayat courts or such other courts which are not executing decrees but only passing decrees. I am unable exactly to understand the scope of the present Bill and therefore I would have it recorded in the proceedings that this Bill does not really receive the approbation of this House. But for my part, after stating these views, I would not personally grudge the privilege to the Honourable the Home Member of having this motion passed and the Bill sent out for circulation.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions : Non-Muhammadan) : I wish to draw the attention of this House to the fact that this is another of those tiny measures which the Government have brought forward on the recommendation of the Civil Justice Committee. Let me very briefly explain to the House what this measure means. We are told that the troubles of the decree holder begin when he obtains the decree and this Bill is intended to aggravate those troubles. Under the law as it is administered at present all matters relating....

**Mr. President** : Does the Honourable Member wish to oppose this motion ?

**Sir Hari Singh Gour** : Yes. All matters relating to execution, discharge and satisfaction of a decree are counted as decrees within the meaning of law, and consequently, there is an appeal and also a second appeal when it lies against the decree of a Court. Now, this right of appeal to the decree holder is denied and is being curtailed in the circumstances mentioned in the Bill, the object of which is once more to reduce the right of appeal. It may be said, "We are doing so in petty cases", that is to say, in the case of money decrees of small value. But I think Honourable Members will agree with me that money cases not triable by a Small Cause Court may affect immoveable property and that as affecting immoveable property they may be of inestimable value. For instance, it may be a rent suit, it may be a suit for use and occupation of land, it may be for damages and compensation for land, or it may be for contribution to a member of a joint Hindu family, or it may be one of those cases where in the guise of a money suit a right in immoveable property is agitated by a party. In all such cases where a party gets a decree, it is not merely a money decree according to its face value, but it leads to certain legal presumptions. If it is a rent suit....

**Mr. President** : Order, order. The Honourable Member knows that the passing of this motion does not commit the House to the principle of the Bill at all, and therefore speeches on it should ordinarily be short.

**Sir Hari Singh Gour** : I shall make a very short speech in view of the lateness of the hour. The money value may be small, but the effect of it upon the jural relationship of the parties might be very great, indeed. I, therefore, submit that the time has not come, for the reasons which you have endorsed only a few minutes ago, when we should embark on this piece of legislation which would curtail the right of a person to appeal against a decision given by the executing court. I therefore submit that the principle of this measure should be opposed.

**Mr. President** : The question is :

"That the Bill to amend section 96 of the Code of Civil Procedure, 1908, for a certain purpose, be circulated for the purpose of eliciting opinions thereon"

The motion was adopted.

#### THE VOLUNTEER POLICE BILL.

**The Honourable Mr. J. Crerar** (Home Member) : I move that the Bill to make provision to enable volunteer police forces to be constituted temporarily and employed locally for the purpose of preserving the public peace and protecting persons and property, and to define the powers and duties of such police, be referred to a Select Committee consisting

[Mr. J. Crerar.]

of Maulvi Muhammad Yakub, Mr. J. M. Dunnett, Mr. M. Keane, Mr. A. Rangaswami Iyengar, Mr. D. V. Belvi, Dr. A. Suhrawardy, Pandit Hirday Nath Kunzru, Mr. Abdul Ilaye, Colonel J. D. Crawford, and the Mover ; and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.

I do not intend to speak on this motion at any length, principally for this reason that my predecessor, Sir Alexander Muddiman, when he introduced the Bill spoke at very much greater length than is customary at the introduction stage. He explained at that time his own intentions and the reasons which actuated him in promoting this measure, the general objects of the Bill and the more important expedients which it proposes to employ. I think, then, that if I traversed that ground again, and dealt fully with the principles and the intentions of the Bill, I should be guilty of unnecessary reiteration. I hope I may suppose that the Bill, at any rate in the main objects which it proposes, is one which will command a very general measure of support. On particular points, on particular expedients which the Bill proposes may no doubt be some difference of opinion ; but none of them I imagine is such as could not well be composed when the Bill is under consideration by a Select Committee. I hope, therefore, that this House will agree without opposition to submit the Bill to a Select Committee.

**Mr. A. Rangaswami Iyengar** (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : I beg to move that the following names be added to the Select Committee : Mr. Rafi Ahmad Kidwai and Mr. Ganganand Sinna.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions : Non-Muhammadan) : I beg to move that the names of Dr. Moonje and Lala Lajpat Rai be added to the Select Committee.

**Lala Lajpat Rai** (Jullundur Division : Non-Muhammadan) : I want to ask a question of the Honourable the Home Member whether we shall be committed to the principle of the Bill to the extent stated in the Preamble in regard to the temporary and local nature of the force. I mean is it part of the principle that the force proposed to be created should be a temporary force ? If that is part of the Bill, then we must object to the principle of the Bill and I shall have to speak at length on that point. But if it is left open to the Select Committee to change the Bill in that respect, I will have no objection to its going to the Select Committee. I want to know from the Government what its intentions on that point are.

**The Honourable Mr. J. Crerar** : The intention of the Bill certainly is that the force should in the first instance be a temporary force. I should myself consider that any proposal that it should *ab initio* be placed on a permanent footing would not be within the scope of the Bill, and I should not be willing to consent that on that particular point the Bill should be amended by the Select Committee.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 25th August, 1927.