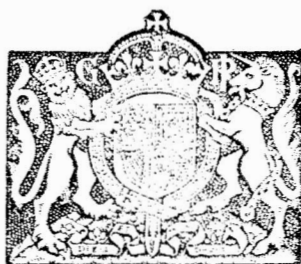


LEGISLATIVE ASSEMBLY DEBATES

TUESDAY, 12th FEBRUARY, 1929

Vol. I—No. 10

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Tuesday, 12th February, 1929.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock; Mr. President in the Chair.

QUESTIONS AND ANSWERS.

PROMOTION OF SUBORDINATES TO THE SUPERIOR TRAFFIC SERVICE ON STATE RAILWAYS.

529. ***Pandit Hirday Nath Kunzru:** (a) Is it a fact that the rules issued for the recruitment of the Local Traffic Service in 1922 laid down that "selected members of the Local Traffic Service will be eligible for advancement to the Superior Traffic Service, and 20 per cent. of the number of superior posts open to the India-recruited branch of the Superior Traffic Service will be allotted for this purpose from time to time"?

(b) Were these rules changed in 1926 so as to allow the promotion of subordinates also to the Superior Traffic Service? If so, how do Government propose to compensate the officers who were in the Local Traffic Service since 1926 for the injustice done to them?

(c) What other services are there in which subordinates are promoted over the heads of superior officers?

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

(b) The answer to the first part of the question is in the affirmative, but no subordinates on the North Western, Eastern Bengal, and East Indian Railways, which alone have Local Traffic Services, have been promoted direct to the Transportation (Traffic) and Commercial Departments of the superior revenue establishment of State Railways. Direct promotions have been confined to subordinates of the Great Indian Peninsula Railway, which has no Local Traffic Service, and such subordinates have only been promoted to fill vacancies occurring on that railway. In these circumstances it does not appear to Government that the Local Traffic Service men have been prejudiced by the alteration of the rules. But in order to accelerate the promotion of those officers in that service, who are fit to be promoted to the superior revenue establishment, they have decided to utilise at least 20 per cent. of the vacancies on the Great Indian Peninsula, as well as the North Western, Eastern Bengal and East Indian Railways for Indian recruits in each year for the promotion of such men.

(c) This is liable to occur in any service when promotion is made by selection.

Pandit Hirday Nath Kunzru: May I ask whether, when the rules relating to the recruitment of the Local Traffic Service were promulgated, it was laid down that members of the Local Traffic Service would not be eligible for Superior Traffic Service posts in the Great Indian Peninsula Railway?

Mr. A. A. L. Parsons: I have not got the rules with me, but I will let the Honourable Member know what the reply to his question is as soon as I can.

Pandit Hirday Nath Kunzru: With regard to part (c), may I know whether the Honourable Member can give me an instance of a department where members of subordinate services are promoted over the heads of superior officers?

Mr. A. A. L. Parsons: I believe it sometimes happens in the Indian Audit and Accounts Service.

Pandit Hirday Nath Kunzru: May I know what happens in the Indian Audit and Accounts Service? Are members of the subordinate service regularly promoted to the Imperial service over the heads of superior officers?

Mr. A. A. L. Parsons: In my recollection some years back there were such cases occasionally. I have been aware of cases where superintendents have been promoted to the Indian Audit and Accounts Service and have therefore gone over the head of Assistant Accounts Officers. But I am afraid if the Honourable Member wants details I must obtain them from other departments: they are not departments with which I am concerned.

PROMOTION OF SUBORDINATES TO THE SUPERIOR TRAFFIC SERVICE ON STATE RAILWAYS.

530. ***Pandit Hirday Nath Kunzru:** (a) How many Local Traffic Service men and subordinates have been promoted to the Superior Traffic Service since January, 1928? Will Government state the names of the promoted subordinates and the positions they were holding before promotion?

(b) Have any Indian subordinates been promoted direct to the superior service? If so, how many?

Mr. A. A. L. Parsons: (a) Five. Three were in the Local Traffic Service before promotion, and the remaining two were Transportation Inspectors on the Great Indian Peninsula Railway, who had officiated in the superior service previously, and were promoted in vacancies on that railway.

(b) The two promoted subordinates on the Great Indian Peninsula Railway were, I believe, both Statutory Indians, but I am making enquiries, and will let the Honourable Member know.

Pandit Hirday Nath Kunzru: May I know the names of the three men who were in the Local Traffic Service and were promoted to the Superior Service? So far as I can see from the figures supplied by the Honourable Member and the Government Gazette, only two men were promoted.

Mr. A. A. L. Parsons: I will give the Honourable Member the information afterwards. I do not think it is generally desirable to give names of junior officers on the floor of the House.

Pandit Hirday Nath Kunzru: Does the Honourable Member realise that I am asking this question in order to check the statement made by the Honourable Member?

Mr. A. A. L. Parsons: That is why I said, Sir, that I would give him the information.

ISSUE BY STATE RAILWAYS OF CLASSIFIED LISTS OF EMPLOYEES IN EACH BRANCH OF THE SERVICE.

531. ***Pandit Hirday Nath Kunru:** (a) Do the Eastern Bengal Railway issue an alphabetical list of subordinates drawing Rs. 250 per mensem and over or on scales rising to Rs. 250 and over?

(b) Is it a fact that the Great Indian Peninsula Railway issue an alphabetical list of such subordinates under the headings Agency, Engineering, Transportation, Commercial, Mechanical, Medical and Stores?

(c) Do Government propose to instruct these railways to issue classified lists, similar to that issued by the East Indian Railway, showing separately the names of the employees in each branch of service and in each grade?

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

(b) Yes.

(c) The Railway Board have already instructed other State-managed railway administrations to follow the arrangement adopted on the East Indian Railway in future issues of the lists of subordinate staff, drawing Rs. 250 and over, or on scales rising to Rs. 250 and over, prepared by them.

NUMBER OF TROOP-CARRYING AEROPLANES IN INDIA.

532. ***Colonel J. D. Crawford:** (a) Will Government please say whether it is a fact that aeroplanes had to be secured from the Royal Air Force in Mesopotamia for the operations in connection with the withdrawal of women and children from various Legations in Kabul?

(b) If the answer to part (a) is in the affirmative, will Government please state the sanctioned strength of troop-carrying aeroplanes in the Royal Air Force in India?

Mr. G. M. Young: (a) Yes.

(b) Two.

Colonel J. D. Crawford: Might I ask whether the military authorities consider the use of these troop-carrying planes useful in increasing mobility for internal security purposes.

Mr. G. M. Young: Government have considered, Sir, the possibilities of troop-carrying machines for military purposes generally, and they have sanctioned these two aeroplanes accordingly as an experimental measure.

Colonel J. D. Crawford: Is it not a fact that the use of these planes has been of exceptional advantage both in Mesopotamia and also for relief operations in Kabul? Is any further experiment necessary?

Mr. G. M. Young: The relief operations to which my Honourable friend refers were not military operations at all. Government consider that experiments are necessary, with a view to local conditions and requirements.

STRENGTH OF UNIVERSITY TRAINING CORPS AND THE INDIAN TERRITORIAL FORCE.

533. ***Dr. B. S. Moonje:** Will Government be pleased to supply information on the following points?—

(a) Which of the several University Training Corps and which of the several provincial units of the Indian Territorial Force is the largest?

- (b) What is the total strength in officers and men of each?
- (c) What is the pattern of the rifles supplied and at what price were they purchased?
- (d) What is the number of rifles that suffice for training of each?
- (e) What is the total amount of ammunition that is required per year per boy for his training and its total cost and the rate of price at which it is purchased?
- (f) What arrangements are made for the custody of rifles required for the training and what amount does it cost per year say in Jhelum, Campbellpur and Nowshera on the one side and in Poona, Belgaum, Allahabad and Delhi on the other?

Mr. G. M. Young: The information asked for is being collected, and will be communicated to the Honourable Member when received.

Mr. President: Mr. Jamnadas Mehta.

(The Honourable Member was not in his seat.)

Mr. President: It is really a matter of regret that Honourable Members should put down such important Short Notice questions* and not be in their seats when the questions are called.

THE HINDU LAW OF INHERITANCE (AMENDMENT) BILL.

Mr. E. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhannadan Rural): Sir, I beg to move that the amendments made by the Council of State in the Bill to alter the order in which certain heirs of a Hindu male dying intestate are entitled to succeed to his estate, be taken into consideration.

I am aware of the fact, Sir, that in making this motion I might be precluded under the Standing Orders and Rules from going into the merits of the Bill as such, for the scope of the motion that I have made is very limited in its nature; but in order to refresh the memories of Honourable Members in this House, I would give a very brief account of the genesis and the objects of this Bill. Honourable Members might recollect that, in the first Legislative Assembly, the late Mr. T. V. Seshagiri Ayyar introduced a Bill very similar to the one which we are now considering and the Bill was actually passed in the Assembly in the year 1923. As a result of the delay in the passage of this Bill in another place the measure lapsed. It was again taken up in this House by my Honourable friend Sir Hari Singh Gour and the Bill was passed in the last Simla session of the Assembly. It then went up to another place and, with certain modifications and amendments, the Bill passed through the other place. We are now called upon either to ratify those amendments made in another place or to suggest other amendments relevant to, alternative to, or consequential upon, those amendments made in the other place. Sir, as the result of the spirit of the times in which we live, which recognises the rights of females to share in inheritance, there has been a tendency among Hindu reformers to recognise the rights of female heirs. I need hardly remind Honourable Members that, under the

* Asking for a statement regarding the riots in Bombay.

ancient Hindu law of inheritance, females, though they are very closely related to a deceased person, are excluded from inheritance simply by reason of the fact that they are females. If such a state of affairs is to be radically altered in accordance with modern conceptions of the rights and liberties of women, there must be a comprehensive and radical alteration in the Hindu Law of Inheritance; but unfortunately the measure that is now before this House does not seek to bring about that radical alteration in the Hindu Law of Inheritance which many of us would like to see enacted. The present measure is very restricted and modest in its scope. Sir, under the Hindu Law of Inheritance, certain females are excluded from inheritance by reason of the fact only that they are females: and this Bill seeks to recognise the claims of certain female heirs who are the near relatives of the deceased person. According to the Hindu law of Inheritance under the Mitakshara school, when a person dies without leaving male descendants, his property goes in the following order: it goes to the widow, daughter, daughter's son, mother, father, brother, brother's son, brother's son's son, father's mother, father's father, and then father's brother, and so on. Now, what is sought to be done in this Bill is that, after the father's father and before the father's brother, the son's daughter, daughter's daughter, sister and sister's son shall have preference to the father's brother. The net effect of this Bill will be this: that when a person dies leaving property not held in coparcenary and not disposed of by will, and if the last persons surviving are the father's brother and a son's daughter, we shall let the son's daughter, being the nearer relative, have preference over the father's brother. That is all that is sought to be done in this Bill. As I said, it does not bring about that radical change in the Hindu Law of Inheritance which alone can give the fullest and the most legitimate recognition to the rights of females according to modern conceptions of the rights and liberties of women. But anyhow, Sir, a small measure like this, which for the first time removes the disqualifications of females as such, is welcome in itself, and I have no doubt that the amendments made by the Council of State, with certain necessary modifications which have been suggested, will be accepted and the measure carried in this House. Sir, I move.

Mr. M. S. Sessa Ayyangar (Madura and Ramnad *cum* Tinnevely: Non-Muhammadian Rural): May I know, Sir, if I will be in order in opposing the entire Bill at this stage?

Mr. President: Mr. Siddheswar Prasad Sinha.

Mr. Siddheswar Prasad Sinha (Gaya *cum* Monghyr. Non-Muhammadian): Sir, I move the motion that is in my name:

"That the Bill be circulated for public opinion."

Mr. President: Under what Standing Order does the Honourable Member wish to make that motion?

Mr. Siddheswar Prasad Sinha: Paragraph 114 of the Manual says:

"After an amended Bill has been laid on the table, any member acting on behalf of Government in the case of a Government Bill or, in any other case, any member, after giving three days' notice or, with the consent of the President, without notice, may move that the amendments be taken into consideration."

Mr. President: That is not the motion of the Honourable Member.

Mr. Siddheswar Prasad Sinha: And paragraph 115 says:

"If a motion that the amendments be taken into consideration is carried, the President shall put the amendments to the Chamber in such manner as he thinks most convenient for their consideration."

Sir, there is a certain procedure between those laid down in these two paragraphs of the Manual; that is, after the motion to take into consideration is put and before it is carried about which the rules are silent, and my motion is one that comes between these two. Absence of any definite rules of procedure at this stage, indicates that the motion is to be treated as a motion for consideration of a Bill.

Mr. President: I am afraid I cannot follow the Honourable Member. The only motion that can be made at this stage is that the amendments made by the Council of State be taken into consideration. There is no provision for an amendment that the Bill be circulated for the purpose of eliciting opinions thereon at this stage.

Mr. Siddheswar Prasad Sinha: As I have already submitted, the fact that no definite procedure is laid down shows that it should be treated in the same way as ordinary motions are dealt with.

Mr. President: The Honourable Member is out of order.

The question is:

"That the amendments made by the Council of State in the Bill to alter the order in which certain heirs of a Hindu male dying intestate are entitled to succeed to his estate, be taken into consideration."

The motion was adopted.

Amendments* made by the Council of State in clause 2 were agreed to.

Amendments† made by the Council of State in clause 3 were agreed to.

Mr. President: The question is:

"That the following amendments made by the Council of State in clause 1 be adopted:

'In sub-clause (1) of clause 1, the figures "1928" were omitted.'

'For sub-clause (2) of clause 1 the following was substituted, namely:

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas, but it applies only to persons who, but for the passing of this Act, would have been subject to the law of Mitakshara in respect of the provisions herein enacted, and it applies to such persons in respect only of the property of males not held in coparcenary and not disposed of by will."

Mr. Siddheswar Prasad Sinha: Sir, I move the amendment of which I have given due notice:

"That in sub-clause (2) of clause 1 of the Bill as amended by the Council of State for the words 'of males not held in coparcenary and not disposed of by will', the words 'not held in coparcenary and not disposed of by will of males dying after the passing of this Act' be substituted."

*"Clause 2 was omitted and clauses 3 and 4 were renumbered 2 and 3."

†The following proviso was added to clause 2 as renumbered:

'Provided that a sister's son shall not include a son adopted after the sister's death.'

†"In sub-clause (b) of clause 3, as renumbered, for the words beginning with 'possessed' and ending with 'from a male' the following words were substituted, namely:

'possessed by a female in property inherited by her from a male according to the school of Mitakshara law by which the male was governed.'

"In sub-clause (c) of clause 3, as renumbered, for the words 'of several sons' daughters, daughter's daughters, sisters or sister's sons' the word 'person' was substituted."

The purpose of this amendment is simply to make the effect of this Bill unambiguous. From a perusal of the clause, it is not clear if it has not any retrospective effect, though in the preamble it has been stated that the Bill is to alter the order in which certain heirs of a Hindu male dying intestate are to succeed to his estate. Sir, after the Bill is put on the Statute-Book, it will go into the hands of lawyers who will interpret it in their own way. I am sure it will give rise to numerous cases of litigation. Eminent lawyers differ even now. Sir Hari Singh Gour, who was the originator of the Bill in this House, is of opinion that it has no retrospective effect whatsoever and so was the Honourable Mr. Das who, while opposing an amendment similar to that which I am moving to-day, in the Council of State, expressed the following view:

"The whole matter was very carefully gone into in Select Committee and the Honourable Member will find that there is absolutely no cause for apprehension at all. As he has pointed out, the words which might have made the Bill retrospective have been taken out, and nothing has been said as to when it is to come into effect, because it is an elementary principle of law, which I think even laymen understand, that an Act does not come into effect till it is passed and till it is assented to by the Governor General, so that it is only after that that this Bill comes into effect: it cannot affect males who die before the Act comes into effect. It is wholly unnecessary to make the amendment."

But Sir Sankaran Nair, in expressing his opinion on that very amendment, said:

"But what really lies behind the motion of my friend is that he wants to give a right to property to certain reversioners who live in the hope that they might outlive the widow and so take the property. That is really what is behind the motion. The words are perfectly clear, and my friend's suggestion cannot for a moment be entertained that those who live in hopes of succeeding to the property of a certain person if they outlive the widow must be compensated; to do so would be against all principles of legislation."

Sir, to leave the Bill in such an ambiguous state when conflicting opinions have already been expressed by eminent lawyers of the position of the late Mr. S. R. Das and the Honourable Sir Sankaran Nair is undesirable. If the Bill really means what Sir Sankaran Nair interpreted it to be, it will be doing a great wrong to many Hindus who died intestate simply because they thought that their desires would be fulfilled by the provisions of the existing Hindu Law of Inheritance. In spite of all the influences of Western civilization and thoughts, Sir, there are tens of millions of Hindus who do not want to swerve an inch from the principles enunciated by the Hindu Shastras, and there are tens of millions who believe in the efficacy of an obligation due to them after their death, and there are many of them who want to reward their successors for the obligations they expect to receive after their death. Had they known that such an anti-Hindu law would be enacted, they would have left a will in favour of the persons who would now be debarred from inheritance by the present Bill. As interpreted by the Honourable Sir Sankaran Nair, it is a great wrong to those departed souls; it will be doing a great injustice to them, and therefore, Sir, in all equity and in all fairness, the amendment should be accepted by the House unanimously and it should be told in unequivocal terms that this will not affect those persons who died before the passing of this Act.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, I rise to oppose this amendment. There are two positions which one can take up with respect to the Bill that has been passed by the Council

[Mr. Amar Nath Dutt.]

of State after amending certain sections. I can understand those who say that the Hindu law is immutable and no legislature can change it. That is a frame of mind which I can well appreciate. I can also understand him who says that "No, in this progressive state of society we are entitled to make such changes as are necessary in the Hindu law, compatible with the present state of society, however sacred some of the laws may be and however high the authorities who framed those laws may be." But, Sir, I cannot understand the position which one takes up when he says that there should be an improvement or change in a law which was framed by our ancient Rishis, and that the benefits of those improvements should be extended to only certain classes of people and that some others should be deprived of the advantages of such improvements. The only reason that has been advanced by the Mover of this amendment seems to be this, that it will be a wrong to the departed souls. I do not know how many of us believe in souls, far less in wrongs done to departed souls.

Now, Sir, as I was submitting, it seems that there must be somebody—the House will excuse me, I am not making any insinuations—probably whose interests are jeopardised at the present moment, and that such a feeling may have prompted some of us to support an amendment like this. I wish that such an impression will not be left about this House at least. My submission is this, that I believe that it is the sages and Rishis of old who framed our laws, and we cannot lightly interfere with those laws under the authority of such jurists as Sir Sankaran Nair or our late lamented friend Mr. S. R. Das. It would be an evil day for the country if we say of the jurists who have been born under an alien rule, influenced by the culture of an alien civilization, having deeply read the jurisprudence of foreign countries, that the change which they want to make in the laws of our ancient Rishis is far better than what has been enacted in the Shastras. But, Sir, when I find that this House agrees with what they are pleased to call "improvements in the Hindu law", I think, consistent with their position, they ought not to deprive a certain section of the people of those improvements.

It has been said, Sir, that people who died at the time might have disposed of their property by a will had they known that such a change would be effected in the law, but the Honourable the Mover of the amendment forgets that a reversioner's interest is an interest in expectancy, and it may be that a reversioner may not inherit at all because there is no knowing that he will survive the holder of the limited estate. If that be so, how can one say that it is a wrong to departed souls and therefore we ought not to give effect retrospective to it? I do not agree with the Mover of the amendment when he says that it is giving retrospective effect at all. It is passing a law as amended by the Council of State, either agreeing or disagreeing with it. On the other hand, I think that, though my friend has appeared to our sense of equity and justice, it will be highly iniquitous if we exclude a certain section of the people for whose benefit we are enacting this law. There may be very rich vested interests behind it. I do not wish to go further into this matter and shall content myself by saying that I oppose this amendment. As I have submitted already, my position is this, either you are not entitled to make any change in the laws of this land which were enacted by our great Rishis,

or if you are so minded, and if you make any change, you cannot restrict its operation only to certain classes of people. With these words, I oppose the amendment.

Pandit Thakur Das Bhargava (Ambala Division: Non-Muhammadan): Sir, the main reason advanced by the Honourable Mover of this amendment is that this Bill is an anti-Hindu Bill. It has been just suggested by the previous speaker that there is a section of the House who have got sympathy with the notion that there should be no change in the Hindu law. I am here to express a view which is contrary to that notion. So far as the Hindu law is concerned, we cannot say that the present Hindu law, as contained in the Smritis, is one which could be said to apply to all times. Leaving aside the inheritance law, there are other sections of the Hindu law which relate to cognate matters; for instance, marriage, guardianship, etc. We know how the present law of the whole civilised world has made inroads upon those sections of the Hindu law. According to the Hindu law, a person would be a major at the age of sixteen, but to-day we know that, according to the Majority Act, the majority is arrived at the age of eighteen. I need not go further into these details, because I do not think that there will be any Honourable Member found in this House who will, at this late hour of the day, contend that the Hindu law in its purity or impurity as it exists should be allowed to continue without any change.

As regards the broad question that all the different sections of the Hindu law concerning various social affairs should be gone into by a committee, and that after that committee has gone into the various points and reported there should be a consolidating measure, I have got much sympathy with that point of view. But it is left to the Government to move in the matter. A Resolution was passed in this House to the effect, but the Government have not yet given effect to it. I do not favour the idea that, unless that comes in, those who believe in social reform, who believe that injustice is being done by perpetuating a state of things which was only good for those times when it was promulgated, should sit with closed hands. If this argument were extended to other spheres, I think Mr. Sarda's Bill would never become operative, it would never be passed. Therefore, as long as the Government do not move in the matter and do not appoint a committee, it is left to us to do our little bit to bring about social reform by small pieces of legislation like this.

The *ratio decidendi* for this Bill is that females who are more nearly related to the propositus than certain persons who are known by the name of *sapindas* (those who are very remotely related) should be regarded as possessing a prior right. If this principle is accepted, as it appears to have been accepted by the Legislative Assembly as well as the Council of State, there is no sense in putting off the evil day as some people put it. Now, if you want to say that this Bill is anti-Hindu and those people should not be allowed to acquire a prior right, I can understand your mentality. But if you want to say that the right is recognised but the enforcement of the right should be postponed to some future time, I do not agree at all.

Now, Sir, it is an accepted principle that succession constitutes the occasion when claims to inheritance come in. Under the Hindu law

[Pandit Thakur Das Bhargava.]

a widow has got a limited interest no doubt, but she represents the estate fully for all practical purposes. If the widow wants to alienate the property for necessity, according to the Hindu law she has got an absolute right to do so. To suggest that this Bill should only apply if the living male dies after the passing of this Bill is really to introduce into this measure, not, as the Honourable Mover has said, anything which has something to do with the enforcement of the right in a retrospective way, but is tantamount to saying that in every case this Bill shall be held in abeyance unless the male person living is dead. If it is true that those expectations will not be realised, which according to a fiction are regarded to have been possessed by persons who are already dead and it will be doing an injustice to the departed souls, may I know, if you pass this Bill and even postpone the enforcement of it, will it not be doing an injustice to the departed souls of the father of the person who died last? If it is true that the ancient Rishis and those who followed them had it in their mind that the property should devolve in a particular way, a mere change of the law involves that you are doing an injustice to the souls of those who had preceded the last dying person.

Sir, the theory of oblation has been put forward. I want to know from any Hindu in this House if all the *sapindas*, all the members who according to the present inheritance law come before sister, son's daughter and daughter's daughter, make any sort of oblations. Do these 382 persons, who, according to the law of inheritance, precede these female relatives, perform any sort of *Sradh*? As a matter of fact; I think every person will reply that this is too far-fetched a thing.

Sir, it has been said that there will be conflict and that there will be ambiguity if this amendment is not accepted. My Honourable friend, who perhaps is not a lawyer, has paid a sort of compliment to the lawyers by saying that, with regard to a Bill of this sort, they will exercise their ingenuity in such a fashion that there will be nothing but uncertainty and ambiguity when the measure is put into force. May I tell him that, as a matter of fact, I do not know of any law with regard to which sound lawyers will not have different points of view to suggest. If it were not so, my Honourable friend would be going against the profession to which I have the honour to belong. Different points of view will always be there. When he spoke of equity and justice I was simply startled. What is the injustice in this measure? When you enact a law to-day and say that succession opens out on the happening of a particular event, why should you defer that event in an arbitrary manner? If these female relations are to be given a right, I want to know the reason why the enforcement of the right should be postponed to a date which has got no stable basis to stand upon. There may be a false notion in the minds of people that the widow does not represent the estate. It is not so, and you will find many rulings of the various High Courts in which it has been held that a widow in her lifetime fully represents the estate. It is then said that the reversioners have got an expectation. But what is that sort of expectation? Under the provisions of the Transfer of Property Act, section 6, *spec successionis* or an expectation is not recognised as an asset or transferable property.

The mere fact that a person has got a right to inherit is not one which can be said to be of any value at all for it may never materialise. Anyhow, if this argument were pursued to its logical conclusion, it would follow that the expectation would be extended indefinitely, but still the expectation would be there. If in this world expectations of that nature were to be realised and had a claim in preference to recognised rights, I would simply submit that we would come to a state of things in which, if you wanted to effect any reform, you would be landed in a position where reform would mean defeated and deferred justice which practically means justice denied. I therefore oppose the amendment.

Mr. M. S. Aney (Berar Representative): Sir, I have listened to the two speeches in opposition to the amendment moved by my friend Mr. Siddheswar Sinha. I believe the amendment is not of such a violent and revolutionary nature that it should have evoked such a stirring reply from my friend Mr. Thakur Das Bhargava. It only aims at remedying what to an ordinary man, at any rate, seems an obvious injustice done to people in whom at present, according to the existing law, certain interests in the property have vested, or are expected to vest in the near future.

Mr. M. R. Jayakar (Bombay City: Non-Muhammadan Urban): They do not vest.

Mr. M. S. Aney: With due deference to my friend Mr. Jayakar, I hope to show that they do vest in certain cases. Otherwise there is no need to bring in an amendment like this. Let us see what the result will be if the Bill is passed as it is. There may be cases in which, according to the present law, the right-title and interest in the property belonging to the deceased man vested, owing to absence of any intervening heirs with limited interest, in persons other than those mentioned in clause 2, but they are not in possession of that property today. They have a right to file a suit for getting that property, within 12 years, under the Hindu law from the date of the death of the last male owner. They may not have yet brought a suit, and some others not entitled to it are in possession. By means of this clause 2, if you pass it immediately, their rights might be defeated as under this law only the persons mentioned in clause 2 are entitled to come in as heirs of the deceased. Though they have inherited that property and are not in possession today, for one reason or another, it does not mean that they are not entitled to it by filing a suit within 12 years. I am for the present excluding the case of the heirs whose rights are in abeyance, owing to the intervention of a widow's estate, altogether. You can certainly conceive of a case of this nature: [A man dies today and certain persons are entitled to that estate as remote heirs, owing to the absence of any nearer heirs with limited or absolute interest upto the grandfather but they are not in possession. Some other person is in possession of the estate today but if they file a suit, they are bound to get it in accordance with the order provided by our laws of inheritance or succession.] Are they not excluded in terms of the present section? I want the House to consider that.

Pandit Nilakantha Das (Orissa Division: Non-Muhammadan): In whom is the property vested?

Mr. M. S. Aney: It vests in those persons who come in one after the other.

Mr. M. R. Jayakar: Question.

Mr. M. S. Aney: I am not talking of the reversioner at all. I am talking of heirs. If I am questioned by a non-lawyer friend I can understand it, but I cannot understand my friend Mr. Jayakar questioning me. He is so much carried away by his zeal for social reform that an argument of this nature is not at present appreciated by him. With all his subtlety and his capacity for drawing fine distinctions between one thing and another, my friend Mr. Jayakar fails to see the distinction between the case of an heir, whose instance I am giving and that of a reversioner, who is in his contemplation.

Mr. M. R. Jayakar: Will my Honourable friend give a specific case?

Mr. M. S. Aney: I have already mentioned a case.

Mr. M. R. Jayakar: I am asking for a case of specific relationship.

Mr. M. S. Aney: Suppose a man dies today and the inheritance goes to persons

Mr. M. R. Jayakar: I want a specific case of relationship like, *e.g.*, a son or daughter, etc.

Mr. M. S. Aney: If he does not leave a widow or a lineal heir or heirs upwards to grandfather, it goes to the remote persons whom you want to deprive of their rights.

Mr. M. R. Jayakar: Will my Honourable friend give me a specific case of relationship?

Mr. M. S. Aney: I do not understand the question at all. I was waiting for a long time to see if my Honourable friend would get up and speak, so that I might have an opportunity of giving him a satisfactory reply. Unfortunately for me he did not care to get up. I stood up as I saw the Honourable the President was going to put the amendment to the House. I think that my position is sufficiently clear to need any further exposition. In the case of the reversioner however, there is a good deal of force in the point that, if there is an intervening estate like the estate of a widow, the position of the reversioners is only that of the expectant heirs, and not that of the heirs with interests already vested. I understand that position, but in that connection also I would like this House to consider very carefully whether we are not introducing, so far as those persons who are dead are concerned, a line of succession which might be wholly repugnant to the religious ideas cherished by them. The position is this. A man dies. You are anxious to do justice to certain near female relations of his in preference to those who might come after certain time. At the time a man dies, he had the right, if he wanted to do so, to ignore these remote heirs who are likely to come in and allow the estate to go direct to the persons whom you want to provide for. He has the right to bequeath it by a will, but he does not do that. There can be two inferences drawn out of this position. Either he is indifferent in that respect or he may not like that estate to go to those persons whom you want to provide for. Now, if you want definitely to lay down a law that it must go to a certain person, then you must take care that in the case of persons who may not have deliberately made a will and have allowed the estate to go to these remote reversioners by thus keeping it open for inheritance by those who

come in by natural course in the order of succession, as laid down in the law which he must be presumed to know you are undoubtedly doing an injustice in my opinion. That is the point. He knows that after the death of his widow, certain persons are to come in. He says " Well, if he outlives the widow, he will get it ". If that man does not outlive, there is another man, a third man and so on in that line, who was looked upon by the deceased as bound to him by a certain religious tie and to whom he looked up for what he considered at least to be his spiritual benefit. I know my friend Mr. Thakurdas Bhargava will say that the spiritual benefit from the *Shradhdha* is a fiction. It may be a fiction or a superposition in the eyes of some. Some persons may have outgrown the present religious conceptions and probably they have got certain other ideas of spiritual benefit which they are unable to express, or they may have none. I am not speaking for the non-believers but only for those who think that they have got certain definite ideas of spiritual salvation and for those who think that the process of that salvation is regulated in accordance with the proper performance of the rituals prescribed in the Shastras by the Rishis of old who were the authors of those Shastras. Their belief is a matter which ought to be the concern of those who are the champions of Hindu culture. I am not for the present concerned with those who say that they do not care for those beliefs. From them the average Hindus I am sure will not be prepared to accept what their culture is and what their culture ought to be. They might strike out new lines and new cults for themselves. They are at liberty to do so. There is nothing in the present law to prevent them from acting up to their convictions. They can do what they like. Those who do not want spiritual salvation have the remedy open to them by making a gift during their lifetime. The present law does not come in the way of the non-believer. He can dispose of his property in any way and thus be free altogether to deny himself the dubious benefits of ceremonies whose spiritual efficacy he seriously questions. But for those who believe in these benefits and covet them, the case is entirely different. The present tendency I regret to observe is not one of toleration. If I want to do a particular thing, I am not satisfied with liberty to do it. I want to see that what I believe is the belief of others and that it is thrust down their throats in spite of them if necessary. It is this spirit of intolerance on the part of the social reformer that is creating greater opposition to the cause of reform than anything else. The Honourable Members must realise that they have come to this House without ever fighting in their election-campaign any issue of this nature. I say, Sir, that it is an issue that does not merely affect the line of succession, but goes to affect the very radical religious belief on which the line of succession is based. It is one of the essential beliefs in the Hindu religion that every Hindu is born with the liability to repay three debts. These three kinds of debts regulate the whole structure of the socio-religious duties according to the Eternal law of the Vedic religion. The various duties prescribed for various men in various stages depend entirely upon the theory of this triple debt. You may call yourself a Hindu, but if you don't believe in them, you are failing in your duty as a Hindu according to the strict ideas of the Vedic religion. (An Honourable Member: "What is a Hindu?") People require sometimes to understand what a Hindu is. This is the essential, this is the basic principle of the entire law laid down in the *Acharakanda* of the Hindu religion. If you don't however believe in it, you are at liberty to say that you don't believe. I

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don't want to arrogate exclusively to myself all knowledge of Hindu religion, but I am entitled to say that the view I have propounded finds full support in the opinions expressed by the lawgivers of Hindus. The law of succession today is more or less related to that theory of the duties of the living to the dead. If any line of succession that you propose to open newly is going to affect that theory, it is a matter for serious consideration. You must do justice to those who died in that belief, and allow their property to be inherited in the way that is most conducive to their religious and spiritual beliefs and convictions. They cannot fight with you. I don't want to fight your beliefs, but I say, don't fight with the dead. If you insist on rejecting the amendment, you will be fighting with the dead.

A1 Honourable Member: What about our duties to the living?

Mr. M. S. Aney: Our duty is to do justice to everybody according to our capacity and according to the best understanding of the Shastras, and a man must know how to make a compromise between the two. You are doing wrong to those who died in that belief.

A1 Honourable Member: How do you know that?

Mr. M. S. Aney: By the very fact that none of them has taken care to dispose of their property in any other way.

An Honourable Member: They might have died in an accident.

Mr. M. S. Aney: All could not have died in an accident. One man possibly might have died in an accident, but the other ninety-nine could not have, so that for an exceptional case you are going to make a law of this sort.

These are some of the considerations that this House should consider in voting on the amendment moved by my friend. This House knows how this Bill was rushed through during the last session. Dr. Gour tabled a motion for introduction of this Bill, and it was the last day when he succeeded in making the motion, or one or two days before the closing of the session. It was circulated for opinion in 1921 only in two provinces, and I have learned that only fifteen opinions were received. Out of that number four were entirely opposed to the Bill, and of the others, some gave only half-hearted support. The other House then allowed the Bill to lapse. It is now being extended to the whole of British India. It is a question which affects everyone of the Hindus governed by *Mitakshara*. It affects everybody who calls himself a Hindu. Being a radically revolutionary measure of reform affecting such a large portion of Hindu society, every Hindu looks up to you, and I think that they have claim on the Members who are returned by them as representatives in this House to respect and safeguard their spiritual interests and religious beliefs from them. This was not one of the questions which formed part of the plank on which the last elections were fought, and a specific mandate for the reform obtained. It is therefore right that we should have a sacred and scrupulous regard for the sentiments of the Hindu society. Do not adopt the attitude that they are all fools and that we know everything. It is a dangerous attitude, which makes me think at times that even the best champions of democracy have not yet thoroughly imbibed the true spirit of

democracy. When we are going to deal with a question affecting such a large mass of the Hindu community, we don't think it necessary that their opinions should be ascertained. Are they not entitled to be consulted in this matter? In 1921 to 1923, when this Bill was first brought to the House, all of us are aware that the whole country was surging with the spirit of non-co-operation. Nobody then cared to look and see what the representatives who came here were doing, defying their mandates.

Mr. M. B. Jayakar: Sir, I rise to a point of order. In suggesting to the House that this Bill should be circulated for further opinion, is the Honourable Member in order in speaking on the amendment before the House?

Mr. M. S. Aney: Why is my friend so much embarrassed at this that he should stand on technicalities? But, Sir, I think that I am
12 NOON. only trying to develop the argument and this is perfectly relevant.

Mr. President: The Honourable Member must confine himself to the amendment now before the House.

Mr. M. S. Aney: So in view of what has been said already, I believe that I have amply demonstrated that there was no occasion for the people to understand the nature of the Bill. In view of that, my appeal is, do not try to do injustice to those who have died before this time in certain expectation of spiritual benefit according to the belief that was sacred to them. I hope the House will do justice to them.

Mr. M. B. Jayakar: Sir, I was present in the House this time last year when my Honourable friend Sir Hari Singh Gour made himself responsible for the introduction and the passing of this Bill. I never then realised, Sir, that a year after, when this Bill should come again before this House, there would be such a full dress and lively debate. I feel certain, and many Honourable Members will agree with me, that to-day will provide a spectacle of a somewhat extraordinary character, when party mandates will be loosened and every Honourable Member will be inclined to disclose his true mentality of reform, or retrogression, apart from the political mandates of his Party. I am sure Honourable Members opposite will have considerable amusement provided for them to-day (Laughter) in seeing Honourable Members who ordinarily vote on the same side of the question, being regulated by mandates of political and party character, to-day fighting, possibly tooth and nail, over this question. We already had one specimen of it in my Honourable friend behind me speaking on this motion. He suggested that I was likely to be carried away by my extreme notions of social reform. He is a Member, as my Honourable friends know, who is very cautious about his words when he speaks on political matters, and I am sure he realised the gravity of what he said. May I quietly remind him that social reform must be a most extraordinarily provocative to have incensed him to make his speech with a warmth that he very rarely displays when speaking on political questions in this House. However, that is a small matter. I shall avoid taking any passionate view of this question, I want to put before the House my submissions in a very dispassionate manner. The amendment before us, Sir, is of a very restrictive character. I beg to oppose that amendment. This is not the occasion for asking for the Bill to be re-circulated for public opinion. The Bill has been before this House

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at a prior stage. As my Honourable friend, Mr. Chetty, in his introductory speech pointed out, this Bill in its spirit and principle was introduced long before this House met by the late Mr. Seshagiri Ayyar. A Bill with similar principle, namely that female heirs were to be given preference over male heirs, was then circulated for public opinion. It went to the Select Committee.

Mr. President: Probably the Honourable Member is under a misapprehension. There is no motion for circulation before the House.

Mr. M. R. Jayakar: Sir, I am aware of that, but I am pointing out to the House that this is an old Bill and now the stage at which we are considering it does not entitle us even to argue that it should be circulated for public opinion. I am aware, Sir, that I am speaking on a narrow amendment. This is an old Bill and its principles have been accepted by this House, including our predecessors. It was even passed by the Council of State, which is generally not likely to take extravagant views of social affairs. (Hear, hear.) It has come back to us with its approval. Now the amendment before the House is very restrictive. I want Honourable Members clearly to realise the effect of this amendment. It is the same amendment as the one which has been tabled by my Honourable friend Mr. Shanmukham Chetty. Before I go into the details of that amendment, may I say, Sir, generally that that amendment will have the effect, if carried, of hanging up the operation of this wholesome measure. Therefore the position of those Honourable Members, on whichever side of the House they may be seated, who think that this is a wholesome measure, is clear. I can quite understand the attitude of Honourable Members in the position of Mr. Aney who do not think that it is a wholesome measure. But the position of those Honourable Members who think it is a wholesome measure is quite simple and clear. Those who believe that this House should not interfere with the Hindu law of succession on grounds which are more or less spiritual *viz.*, that obligations to the dead come in, to which my Honourable friend Mr. Aney referred with such detail, those I say who believe that this mundane House, somewhat material and non-spiritual in character, has no right to interfere with the law of succession because every law of succession concerns the dead, to them I have nothing to say. Their proper function is to oppose the Bill. But may I say, without offence to my Honourable friend Mr. Aney, that those like him who are taking shelter under the present amendment but are really opposed to the principle of the Bill itself will not be honest in voting for the amendment? Their opposition is to the principle of the Bill. They are absolutely opposed to social reform of any kind. My Honourable friend Mr. Aney made it perfectly clear in his speech that he thinks that we have not come to this House on any social issue, that we did not submit such issues to any popular vote at the time of our election and therefore we cannot make them the subject of a controversy in this House. I do not agree with him, but I can understand his attitude. His support to this amendment, in my opinion, is disingenuous. I am however speaking to those—it may be a narrow or wide section of the House—who believe in the principle of this Bill, who go further and say that the Bill embodies a very wholesome, rational, and liberal principle but who wish to support the amendment, to that class in this House my remarks are primarily addressed. To them, I say, be very careful before

you vote for this amendment, because this amendment, although it may seem to be grounded on equity and justice, will have the effect of postponing the operation and the effect of what they regard as a wholesome Bill. What does this Bill do? This Bill is a very humble attempt for the purpose of equalising, and removing the inequalities and anomalies of the Hindu law. Without tiring my Honourable friends too much with the details of this question, which is a very technical and difficult subject, I may say, Sir, that the whole theory of inheritance in Hindu law—I shall avoid all technicalities as far as possible, but some technical jargon is absolutely inevitable—the whole theory of Hindu law of inheritance is as follows: when a male dies, his male children come in first up to three generations, his son, his grandson and his great grandson. Failing this branch, his widow comes in. After her, his daughters come in. After the daughters, the daughters' sons come in. That exhausts the progeny of the individual. Failing any of this progeny the succession goes to his parents. I am stating in very simple English the main principles on which inheritance proceeds. Then the mother comes in first in certain provinces, the father comes in first in certain other provinces. After the parents are exhausted, then the father's progeny comes in up to the brothers' son. This is the line in which succession proceeds. But it does not stop there. Then it proceeds further in a manner which may appear extraordinary to non-Hindus. It had its origin in times when males were a great fighting asset, and therefore heritable preference had to be given to them over females. I am here speaking of the days, very very ancient, when males were a fighting asset, in the cause of civilisation and culture. Tracing from that time, this inheritance and succession have continued, with the result that all males upto six generations upwards and six collateral generations from each of them had this right of preference over nearest females. Quoting from the latest edition of the ex-Law Member Mr. Mulla—I will just give my Honourable friends the total number of these male reversioners—father, father's father, his father, his father, his father and his father. Thus after going up to the top to the seventh degree, seven generations of collaterals from each of them upto the seventh degree, have to be included, i.e., the topmost ancestors' six generations, his son, his son, his son, his son, his son and his son. Sir Sankaran Nair speaking in the Upper House made a very careful computation of these individuals who in the more distant degrees are called *Samánodakas* and whom, a very facetious Judge of the Bombay High Court once described as chimerical beings who existed on the genealogical tree but rarely in actual life. But still they exist in the computation of the lawyer and do sometimes crop up in rare cases. They have been roughly calculated by Sir Sankaran Nair as 382 in number. The anomaly of the law comes in here, that these 382 individuals, of whose existence even the testator is not often aware, come in before his nearest relations like son's daughter. Another argument was advanced: "Oh, the last male owner should have left a will, and as he has not done so, his presumed intentions must be taken to be to benefit the man who is several degrees removed, as against his own nearer relations like his son's daughter". This would be a most extraordinary presumption indeed! The argument proceeded from my learned friend Mr. Aney, who said, "Oh, by reason of his dying intestate we can presume his intentions as if he made a will in favour of those to whom the estate goes by operation of law". But, Sir, what is this "presumed intention"? First of all, God alone knows what the intention of a dead man was. The devil may possibly know it, but

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certainly we mortals do not know it. It is perhaps a privilege shared between God and the devil to know what exactly was the intention of a deceased person. But supposing we could know the "presumed intentions" of a dead individual, why should we presume that, if he had known the real law of succession, which he is supposed to know, he would have left a will in favour of any of these chimerical individuals, any of these 332 distant men, as against his own son's daughter, daughter's daughter, sister and sister's son whom this Bill provides for? Surely is it not too much of a stretch of imagination to believe that, if the deceased had left a will with knowledge of the law, he would have preferred these chimerical individuals six or seven degrees removed and would have ignored his own son's daughter daughter's daughter, sister and sister's son? Therefore, the argument based on the question as to what could have been the wishes of this man, if he had been able to give expression to them by means of a testamentary document, is certainly too far-fetched. Leaving this question, let us see what this Bill provides. This Bill does not interfere with the deceased man's progeny, goes up to his father, and mother, then takes his father's progeny up to two generations, brother and brother's son, then it goes to the father's father and stops there. Stopping there, there is a provision in this Bill which introduces four female heirs at this stage, who would be but for this Bill and who are, under the present law, postponed until these 332 individuals are exhausted. In other words, this Bill seeks to make a kind of compromise between the old theory of *sapindaship* and the newly awakened public desire that female heirs should be given their proper place in the scheme of inheritance. And there it stops; it stops with the inclusion of only four heirs, and not more. This ought to prove to my Honourable friends that its provisions are not a very violent departure at all. I am again going to quote from Mr. Mulla's new edition of Hindu Law which I received only last night here. The heirs who will not be touched by this Bill at all and who will stand as under the old law are the son, son's son, etc., i.e., three generations—they will not be touched; the widow will not be touched, the daughter will not be touched, nor the daughter's son, nor the mother, father, brother, brother's son, in Bombay, the grand-mother, full sister, half sisters and others, who have secured a place in Bombay, then, the great grandson, great great grandson, great great great grandson, son's widow, grandson's widow, great grandson's widow—in certain provinces—brother's son, brother's son's son and so it goes on until we come to the 34th heir, the father's father. There it will stop. So, all these old stages of the law are not touched by this Bill. Is that a very violent departure, may I ask? A great deal has been said that we are revolutionising the law. Is it revolutionising the law to say that daughter's and son's daughter should have the benefit of heirship, after all these nearer heirs, mostly male, have been exhausted. I want my Honourable friend to remember that the son's son is a very near heir, he gets the property in the very first remove. The son's daughter however is postponed for 332 generations. Similarly, the daughter is provided for, the daughter's son is provided for. The daughter's daughter is again postponed for 332 generations. What equity is there, except that by a freak of nature, the secret of which science has not yet been able to unfold, the one child is born a male and the other a female? What else is it but a mere freak of circumstances? Is it equitable to penalize the female child to the extent of putting back her rights for 332 generations? We want just to modify the evil effects of this freak of nature. That is

the purpose of this Bill. I want my Honourable friends to realise that there is no violent revolutionary purpose in this Bill at all. Do we honestly believe, as the ancient Hindus believed, that all males are capable of taking inheritance, but that women are not so capable? I may here point out to my Honourable friend Mr. Aney, because I know a little of Hindu law—then he should examine very closely the foundations of this doctrine that Hindu women are not competent to inherit. May I point out, Sir, that the main authority on which that doctrine is based is from a book on Vedic Ritual, and not on any law of inheritance? Speaking of Vedic Ritual, I may state that there was a time when in very ancient times a liquor, similar to the drinks now in use, used to be distributed in ceremonial sessions. It was called Soma juice. It had the reputation of giving a touch of Dutch courage, if I may use that modern expression, a feeling of elation for the moment, just like that which drinkers feel when they take a drink in these days. The belief arose, which became a rule in course of time, that as women were not required to fight, they should not be given a portion of this drink. Now in Sanskrit the word for a portion is *Dāya*. The *Dāya* (portion of drink) was excluded from the woman because it would be wasting that drink upon her as she would never be called upon to fight. Mark the words, Sir, it was a "portion of the drink" that was excluded from women. Later on some wag of whom there were great numbers in those days, took those words from the ancient context and turned them into a text of the Hindu law. He took advantage of the fact that *Dāya* also means a portion of the inheritance. My Honourable friend Mr. Aney, I am sure if he knew this origin of the rule, would not say that the Hindu law does not allow women to take inheritance, as summarily as he did.

Mr. M. S. Aney: I have never said that the Hindu law does not recognise that.

Mr. M. E. Jayakar: My Honourable friend solemnly propounded the sacrosanct character of the Hindu law and felt a superior reverence for it. Therefore, I am examining the theory and it is this theory we have to examine now. I certainly wish, as my Honourable friend said before me, that we could have a committee of this House sitting to examine the whole theory of the Hindu law of inheritance, and go into its rudimentary conceptions and evolve an equitable system. But the Government would not allow us to do that. But for all that, it is fortunate that that extremely maligned species of human beings, in Mr. Aney's opinion, the social reformer, does exist in this House and in this country too, and cannot be got rid of merely by a mere *obiter dictum* of Mr. Aney's. In spite of great difficulties the social reformer has got to struggle to get these little things improved bit by bit. It is not his fault, it is the fault of circumstances, that he can only introduce little bits of reform because we have not in our hand the wide power of introducing reform enjoyed by those sitting on the opposite benches. We can only struggle on slowly as humble social reformers have always struggled in the past and will struggle in the future, gaining slow victories bit by bit.

I do not wish to go further into this matter. That is the present theory and that is the present Bill which says that certain degrees of remoter male heirs should be postponed to the nearer degrees of female heirs. Now who are these relations thus preferred? How near are they to the deceased?

[Mr. M. R. Jayakar.]

Sons' daughters, born of our own son's loins. Daughters' daughters, sisters and sister's sons. Some critics have said "Oh, why not also other female heirs?" I say sufficient for to-day is the evil thereof, I would certainly try to introduce many more female relations, but let us first get this Bill through and then the time will arise to extend the right to others. These are the near relations touched by the present Bill. Now I want my Honourable friends to contrast them with the remoter degrees of male relationship and such an examination will show Honourable Members that this is a very sensible Bill, and by no means an extravagant one.

Now coming to the amendment, it introduces a very controversial matter. The amendment says, Sir, that this Bill will not apply to cases where the male owner has died prior to the passing of this Bill. That is the amendment paraphrased in plain English. It means this. Let us suppose that a man dies a year before this Act comes into force leaving a widow who is about 20 years of age—I am taking a hypothetical case—and that widow is now in possession of the property. In spite of the short age limit in India, let us say the widow lives for another 25 years, and 25 years after this Act passes, the widow dies. The succession in that case opens 25 years after this Bill passes. The amendment says that in such a case, although the Act is passed to-day, and the succession opens 25 years later, the old iniquitous law should prevail, by reason of the simple fact that her husband, the male heir, died before the passing of this Act. I want Honourable Members to bear in mind the meaning of the expression "succession opens" which has a distinct meaning in law; it means the date on which the heirs to the male owner, consequent on the death of the widow, are to be determined. That is in law the material date, and although that date comes 25 years after the passing of this Act—the amendment says the case will not be governed by this Act but by the old order of things, *i.e.*, according to the law which ceased to exist 25 years ago. I submit, Sir, that apart from any other argument against it, the amendment will certainly have the effect of hanging up the liberal provisions of this Bill. If we believe that the provisions of this Bill are wholesome, what is the reason for not making them applicable to a case where the succession opens after the Act has come into force? I can understand the anxiety of the conservative elements in this House—among whom I may even include myself—that we should not make this reforming Bill applicable to vested rights, *i.e.*, those which are vested either in interest or possession, or those even which are pending in suits in a Court of Law. I agree that this Bill, to use lawyers' language again, should not have the effect of divesting titles already vested. I can understand that as a lawyer. I recognise the desirability of doing nothing of a revolutionary character which will have the effect of divesting titles. Supposing, *e.g.*, a reversionary heir has already got hold of property excluded by this Act. He should not be called upon to divest himself of it. I can understand that and if this Bill had the effect of doing that I should certainly have opposed such an operation. But the Bill does nothing of the kind. It should be observed, further, Sir, that this Bill has proceeded from a very conservative House where these considerations of caution and prudence were present to the mind of Honourable Members. The Bill has provided ample safeguards. It only applies where a man has not left a will—that is a very wise limitation in the Bill. Again

it does not touch family property, which comes under a provision of its own. The Bill only applies to the separate property of which a man dies intestate; it does not touch any other property at all. It also excludes customary rights. In such cases of limited application I cannot see any reason why the operation of this Bill should be postponed, on the simple ground that the propositus died some years ago.

The argument was advanced, Sir, that we should have regard for the feelings of the dead. That was a very strong plea urged by my Honourable friend Mr. Aney. Well, it is a very risky doctrine to proceed upon where the precious rights of the living are involved. First of all, we can never know the true intentions of the deceased. But assuming that we did know them, as I said a few minutes ago, it is impossible to say what he would have done if he had known the true law. There is a constant caveat which Courts of Law have to bear in mind and a *fortiori* a House of a non-legal character like this, that it is unsafe to embark on enquiries into the intentions of a deceased individual. One has no means to find them out. Therefore, I say that all we can do, is to provide for a limited operation of the principle of the Bill, in so far as it should affect vested interests, vested either in possession or in interest. My Honourable friend Mr. Aney says "I am not speaking of reversioners at all; I am speaking of heirs who are not reversioners." May I remind him once more of his law, that excepting the son, the grandson and the great grandson in the male line, no other male heir intervenes except as reversioner, because the moment these three relations are exhausted, *viz.*, the son, grandson or great grandson, the widow will come in, and after her the reversioners. I do not know what particular case of relationship Mr. Aney had in view when he advanced his argument. I asked for a specific case, but he did not give one. The possible male heirs before the widow, are sons, grandsons and great grandsons. This Bill does not apply to them at all because the assumption of the Bill is that there is no male progeny. The Bill is intended to touch only those male heirs who come after the widow. Therefore my Honourable friend, possibly in his zeal against social reform, forgot his law. There is no male heir whom you can include in this Bill except reversioners.

Now what is the reversioner's interest? Even a tyro in law will tell us that it is purely an expectant or contingent interest. It is not in law a vested interest, which can ask for our protection. As an authority for this view, I will quote from the ex-Law Member Mr. Mulla's new book, page 164, and I am sure the new Law Member will agree with him. "The interest of a reversioner is an interest expectant on the death of a limited heir. It is not a vested interest."

I need not go into other arguments. We are asked, on the grounds of the supposed intentions of the dead and the expectant interests of the Reversioners to postpone the near relations, the kith and kin, who would possibly be surrounding the deceased on his death bed,—the son's daughter, the daughter's daughter, sister and sister's son. These are some of the relations with whom the man would be in his dying moments. They would possibly soothe and nourish him on his death bed. These relations are to be postponed and that too for the supposed intentions of the deceased man, which we cannot ascertain, or for some supposed justice to contingent interests in favour of a man who may not be alive when the widow dies, and of whose existence possibly the owner was not aware, who possibly did

[Mr. M. R. Jayakar.]

not exist at the time when he died and came into existence during the widow's life-time—I ask Honourable Members whether it is sound to postpone the operation of this principle for the sake of a man whose right, in the words of Mr. Sinha, the Mover of the amendment, is only that of one "who lives in the hope and expectation of succeeding if he outlives the widow." I am quoting his words. That is an interest which the law does not recognise. If its owner went out into the market to deal with it, section 6 of the Transfer of Property Act—as the Honourable Law Member will agree with me—says that it is a pure *spes successionis*—a mere chance of succeeding, which he cannot barter away or sell, cannot pledge, or in any way deal with. It is purely an expectant interest which has no existence in law. For such vague interests we are asked to ignore the interest of those in whose hands possibly the man dies.

Mr. R. K. Shanmukham Chetty: Sir, there stands in my name on the agenda paper an amendment similar to the one moved by my Honourable friend; but as I have been advised that, from the drafting point of view, the Honourable Member's amendment is better than mine, I adopt his and give my whole hearted support to it. Sir, in the discussion that we have had this morning, Mr. Jayakar found evidence of the conflict between liberalism and orthodoxy. May I be permitted to tell Mr. Jayakar that in my zeal for reforming the Hindu law of inheritance in accordance with modern conceptions I do not yield even to Mr. Jayakar himself and yet I support the amendment?

An Honourable Member: How?

Mr. R. K. Shanmukham Chetty: My Honourable friend will hear the reasons presently. Mr. Jayakar covered the want of arguments for his proposition by a very elaborate and interesting disquisition of the Hindu Law of inheritance. His disquisition on the Hindu law of inheritance, though perhaps a little bewildering to laymen, was in itself a very interesting piece of performance. But, Sir, I may be permitted to state that all those disquisitions about the Hindu law of inheritance were absolutely irrelevant to the amendment that we are now considering. We have heard a good deal of discussion this morning both from lawyers and from laymen. My position is one of peculiar advantage, because I am a layman who knows some law. (*An Honourable Member:* "Very dangerous knowledge.") Therefore I can bring the common-sense point of view of the layman to the intricacies of a legal proposition.

In explaining my attitude towards the amendment and the exact position in which we stand with regard to the amendment I cannot do better than illustrate my argument with a specific illustration. We will take it for granted that a Hindu male who held property which was not coparcenary property and which he did not dispose of by will died five years ago. Now, with reference to that man's property, is the succession to take the order of succession as prescribed in Hindu law or as we are now amending it in this Bill. That is the whole proposition. I am sure my Honourable friends in this House, even laymen, will understand the justice and equity of this amendment if I remind them that when you alter the provisions of the law of contract, ordinary justice and equity require that the new alteration that you make, should not

affect contracts that have already been made before the new law was passed. Well, Sir, this amendment simply ensures that, so far as the estate of persons who died before the passing of this Act is concerned, this measure will not have a retrospective effect. I was surprised to hear my Honourable friend, Mr. Jayakar, state that God alone knows what the intentions of a deceased man were. Such a statement coming from a learned lawyer like Mr. Jayakar caused me a good deal of surprise

Mr. M. R. Jayakar: Unless these intentions are expressed in a will.

Mr. R. K. Shanmukham Chetty: Surely neither God nor the devil nor even a lawyer can know what the intentions of a deceased man were. But, Sir, may I respectfully submit to my Honourable friend, Mr. Jayakar, that in such cases the law is entitled to presume what exactly was the intention of a dead man. A Hindu dies leaving property; and the law presumes that if he specifically wanted that the order of succession to his property must take a line different to the one prescribed in Hindu law, he would naturally leave a will; and from the fact that the deceased person has not left a will, the law is entitled to presume—and in justice and in equity it ought to presume—that the dead man was satisfied that his property on his death must take the order of succession known to him and prescribed in Hindu Law. I ask, can there be any justice or equity or good conscience when you come and say: "I do not know the intentions of the deceased man; therefore I will now, long after the poor man is dead, alter the law of succession and divert the property in a way which was not intended by him either specifically by will or by his intentions." That is the whole point of my argument. Now, my Honourable friend, Mr. Jayakar, paid some well-deserved compliments to the Council of State. He said:

"The Council of State is not likely to take an extravagant view of this matter. They have sent us the Bill in a particular form, which means that they have given mature consideration to this Bill and they were satisfied that the Bill, as it has emerged from the other place, is a very equitable measure."

Sir, I am very glad that my Honourable friend, Mr. Jayakar, has made this statement. But if only he had taken the trouble to read the proceedings in the other place when this Bill was enacted, he would not have opposed the amendment that is now before the House. I take it from the remark of Mr. Jayakar that he is satisfied that the intentions of the Council of State, when they enacted this measure, were perfectly equitable and just; and my task is therefore a very simple one. Let us find out what exactly the intention of the Council of State was when they enacted this measure; and if I can prove to Honourable Members that the intention in the other place was exactly the intention as embodied in this amendment, then, I hope, Sir, my friend Mr. Jayakar will go into the same lobby with me and vote for my amendment. In the other place, when this Bill was first introduced, the Honourable Mr. Ramdas Pantulu, an ardent social reformer, made the following observation:

"The Bill ought not to apply to inheritance of Hindus who died before the passing of this Bill. That is an essential point."

Mr. M. R. Jayakar: That was his personal view.

Mr. R. K. Shanmukham Chetty: Just one minute: that was his personal view; but later on what happened? The Bill was referred to a Select Committee and it came back from the Select Committee in due course. Another Honourable Member there, the Honourable Mr. Mahendra Prasad, gave notice of an amendment similar to the one of which I have given notice. And in speaking on that amendment he said:

"All that I want is that it should be given effect to only in cases of property of males who die after it has been passed into law."

That was the intention of Mr. Mahendra Prasad in moving his amendment. And what was the answer given by the Honourable the Law Member to the contention put forward by Mr. Mahendra Prasad? He said:

"Sir, I think the Honourable the Mover of this amendment is unnecessarily apprehensive."

Then he goes on to say:

"The whole matter was very carefully gone into in the Select Committee, and the Honourable Member will find that there is absolutely no cause for apprehension at all. This Bill cannot affect males who die before this Act comes into effect. It is wholly unnecessary to make this amendment."

It was because the then Law Member in the other place said that it was unnecessary to make this amendment—in fact the intention of the Bill as it was before the Council of State was exactly in the terms of this amendment—that the Honourable Mr. Mahendra Prasad did not press his amendment.

Mr. M. R. Jayakar: This Bill speaks for itself apart from the comment of the Honourable the Law Member.

Mr. R. K. Shanmukham Chetty: It is because Bills speak for themselves that lawyers flourish in Courts. Sir, perusing the record of what took place in the Council of State, I put it to Honourable Members and I put it to my Honourable friend Mr. Jayakar, what exactly was the intention of the Council of State when they passed this Bill. Their intention was that this Bill should not affect the estate of Hindus who died before this Bill came into effect.

Mr. M. R. Jayakar: That was the Law Member's intention.

Mr. R. K. Shanmukham Chetty: That certainly was the intention of the Council of State, and it was only after an assurance given by the then Law Member, who certainly was entitled to be considered as an authority in this matter, that the Honourable the Mover of the amendment did not press his amendment. But, Sir, unfortunately different lawyers have begun to put different interpretations on the Bill as it has emerged from the Council of State. Some eminent lawyers have said that the interpretation put upon the Bill by the late Mr. S. R. Das was the correct one, while other equally eminent lawyers have said that much can be said for the other side also, that the Bill can affect even the estates of persons who died before this Act came into operation. Therefore, Sir, if we now in this House pass this legislation, conscious of this loophole, then I say we will be failing, and grossly failing in our duty.

Mr. B. Das (Orissa Division: Non-Muhammadan): Let us first hear the new Law Member.

Mr. R. K. Shanmukham Chetty: Sir, I hope my friend Mr. B. Das, if he is convinced that the Bill as it stands before the House without this amendment, does not carry the intentions of this amendment, he will vote for my amendment, and I would await with interest what interpretation the new Law Member puts on the Bill. So far as the intention of the Council of State is concerned, a perusal of the records has convinced me, as I am sure it has convinced every Member here, that the intention was to enact a measure on the lines of the amendment which is now before the House. It is no doubt now open to this House to say that it is not our intention to enact a measure like that, that we want this measure to apply even to estates of persons who died before this Act came into effect, but then I would ask Honourable Members to realise that clearly

Mr. A. Rangaswami Iyengar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): There is no amendment of that kind.

Mr. R. K. Shanmukham Chetty: There is no amendment of that kind, it is quite true. But my friends who oppose my amendment on that ground are certainly entitled to do so, but if Honourable Members are under any misapprehension that the Bill, as it is before us without the amendment, also carries the same intention into effect, I would submit to them: that it would be safe to incorporate this amendment, so that the provisions of the Bill may be made absolutely clear and no loophole might be left for litigation.

The Honourable Sir Brojendra Mitter (Law Member): Sir, some of my Honourable friends want to know what my views on this Bill are. Before I express any views, I want to make it perfectly clear that I am talking in my personal capacity as a lawyer, and not as a Member of the Government, because the attitude of Government in this matter is one of strict neutrality.

Sir, before I deal with the provisions of the Bill, I want to say a word about the intention of the Council of State. It is an elementary canon of law that the intention is to be gathered from the words used in the Bill itself. You may not refer to proceedings of any Council to gather the intention. Therefore, so far as I am concerned,—I shall not refer to anything which happened in the Council of State,—I shall confine my observations to the words used in the section itself and tell you what, in my opinion, the intention is. My reading of Section 1 is that it does apply to the estate of males, whether they die before the passing of the Act or after the passing of the Act. There is no question about it. The words used are "And it applies to such persons in respect only of the property of males not held in coparcenary" and so on. Now, these persons are the competing heirs; therefore the point of time which you have got to look to is when the competition begins, that is to say, when the limited owner dies. Now, I am talking rather in technical language. I shall express myself in more popular language. In Hindu law when a woman inherits property from a male, ordinarily her interest is a limited interest; she never becomes the absolute owner. It is not her separate property; and when that limited interest comes to an end, then come the full heirs of the last male owner who become absolute owners. Here the words used are "It applies to such persons in respect only of the property of males". This

[Sir Brojendra Mitter.]

application is when the limited owner dies, or, in the language used by my learned friend Mr. Jayakar, when the succession opens out. Now, the effect of the Bill and the effect of the amendment are these. If the Bill stands as it is, then the heirs mentioned in it will come in, after the limited owners who are now in possession, die. But if it be the intention of the House that it should not apply to those persons because the owners of the estates died before the passing of this Bill, then the amendment is certainly necessary. Now, I will make the matter a little more clear. This Bill does not affect any vested interest. The whole controversy ranges round such estates only which are now in the possession of limited owners. Full owners who are now in possession of estates will die after the Bill is passed, and the Bill of course, apply to such estates. Now, the estates of male owners who are dead and which estates have not descended to full owners but are in the possession of limited owners—it is in respect of these estates only that this controversy has been raised. That being so, the question is, are the reversioners, after these limited owners die, to be protected, or are they to be placed in the same position as other reversionary heirs who will inherit the property of males dying after the Bill is passed? That is the whole question before the House. Is their interest to be protected? I am in entire agreement with what my Honourable friend, Mr. Jayakar, said about the interest of reversioners. In law it is not an interest at all. I will illustrate it by an example. A man dies leaving a widow but no children. Now, the widow is in possession of that estate. The interest of the widow is a limited interest, she is a limited owner. It may be after the widow's death a nephew of the man will become the full owner. But what is the interest of that nephew? During the lifetime of the widow it is an expectancy merely, the nephew will get the property if he survives the widow. Therefore, the law says it is not really an interest, it is merely an expectancy, or in legal language, *spes successionis*, that is, a mere chance of succession if he survives the widow. Now, the whole question is, are we going to protect such expectant heirs by accepting the amendment, or are we going to place them in the same position as other expectant heirs in regard to the estates of males who will die after this Bill comes into operation? That is the whole question before us.

In that controversy Government take no part, but I am only explaining to you that this controversy ranges round only such estates as are now in the possession of limited owners because the full owner is dead. The time for competition will arrive when the limited owner dies, she may be a widow, may be a daughter. When the limited owner dies and the competition arises, then the question is, will these persons, the near relations who are mentioned in this Bill, have priority over the distant agnatic relations, or will they be postponed? That is the whole question before the House. This controversy does not really go into the fundamentals of the Hindu law. When you look into it closer, it is narrowed down to this, what will happen with regard to estates which are in the possession not of full owners but of limited owners at the present time? When these limited owners die and the competition begins among the heirs, whom are you going to prefer? Are you going to give the benefit of the Bill to these persons, the near relations who are mentioned here, or are you going to postpone them to the distant agnatic relations? That is the question.

That is the legal position. If you want to protect the expectant heirs of people who are dead, then the amendment is certainly necessary, notwithstanding what might have been said in the Council of State. But if you want to place those expectant heirs in the same position as other expectant heirs of persons who will die after this Bill comes into operation, then the Bill, as it stands, serves that purpose.

Mr. B. Das: I move that the question be now put.

Pandit Madan Mohan Malaviya (Allahabad and Jhansi Divisions: Non-Muhammadian Rural): I am entirely opposed to this Bill, and if I speak at this stage on this amendment, it is only to help to clear up the issue before the House.

I think Honourable Members should remember that the Hindu law of succession is a personal law. The Government have guaranteed that they shall not interfere with that law, that their Courts shall administer the Hindu law as it exists, and I submit that it is not right of this Legislature to attempt to alter the line of succession which has been laid down in the Hindu law. It is not a question which affects a certain community of persons as such. It is a question in which every individual who is a Hindu has a right to expect that neither the Government nor the Legislature shall make any attempt to alter the law under which he has lived. The Indian Succession Act may be a very logical Act. The Muhammadan law of inheritance may be a very logical order of inheritance. There may be other systems which are more logical than this, but the Hindu law is personal to the Hindu and he has a right to expect that no one shall interfere with the order of succession which has been laid down for him. I submit that for this Legislature to attempt to do it is very wrong. I am not going beyond that for the present, in the hope that I shall be able to discuss this matter further when the third reading of the Bill comes up.

An Honourable Member: No third reading in this case.

Pandit Madan Mohan Malaviya: Is it so? Then I had better take a few more minutes on it. I wish to add that when this Bill was introduced into this Assembly, it was a time when the matter had not received full consideration. It was first introduced and circulated in 1921

Mr. President: We are merely dealing with the amendment.

Pandit Madan Mohan Malaviya: I am dealing entirely with the amendment and I want to show how very desirable it is to consider the amendment in its full meaning. I wanted to point out that when the Bill was circulated in 1921 it did not receive much attention. It was the period of non-co-operation. Only 15 opinions or so were received. Nor did the matter receive more attention when the Bill was passed in this House. When it went up to the Council of State, it was discussed there no doubt, but the country as a whole, the Hindus as a whole, have not had that opportunity to express their opinions regarding this measure which vitally affects them, which the Legislature affords to the parties concerned on every other measure. I submit, therefore,—I would request Members, particularly Members who are not Hindus,—to abstain from voting in favour of the Bill, because at this juncture the least that the Hindu community can expect from Members who are not Hindus, is that they will not lend their support to an alteration in the line of succession which they have inherited for a long time. This line of succession has come down to us from ages, and it is not to be so lightly disposed of as I regret to

[Pandit Madan Mohan Malaviya.]

say my Honourable friend, Mr. Jayakar, wants it to be. The line of succession is laid down in our religious law. That line of succession may have some defects, but that line of succession has also many good points. If time permitted, and if the opportunity was not so unsuitable for the purpose, I would have explained the reasons upon which rests the order of succession as it is laid down in the Hindu law. It has not lightly disregarded the interests of the son's daughter or the daughter's daughter. The system is based upon spiritual considerations, and those considerations descend from line to line. And if a *gotraja*, that is, a person in the male line who is related even in the sixth degree, is preferred to the son's daughter or the daughter's daughter, it is because that *gotraja* performs certain rites of a spiritual character, the benefit of which accrues to the man whose property is in question, whereas the son's daughter and the daughter's daughter do not; and it would be an outrage upon the sentiments of pious Hindus if they were told that, after they were dead and gone their property would not go to those *gotrajas* who are bound religiously and spiritually to offer oblations, etc., for the benefit of the soul of the deceased. It is not that the son's daughter and the daughter's daughter cannot humanly do it, but by the religion of the people which they believe in they are not expected to do it. In fact, their doing it would be regarded as a thing which the deceased person could not accept. A father cannot accept a gift from a daughter. The deceased person can not receive oblations and ministrations from the son's

I P.M. daughter and the daughter's daughter. I do not think, Sir, that in a matter like this which has got its root deep in religious and spiritual considerations, the subject should be taken up in a light spirit and disposed of in a light spirit. One should expect that, if the Hindu community wish to alter the line of succession, there should be a proper consideration of the measure. I will remind my English friends of the time it took them to get a measure placed on the Statute-Book permitting a man to marry his deceased wife's sister. You know sentiment, particularly when it has a religious basis, is very deep and we should respect the sentiments of our fellow subjects as we expect them to respect our sentiments. To my Hindu friends I would say that they should not be in a hurry to pass this legislation.

Mr. President: Order, order. All these arguments are in favour of rejecting this Bill. The Honourable Pandit knows very well that nothing he will say now can entitle this Assembly to reject this measure. The Honourable Pandit must therefore confine himself to the amendment now before the House.

Pandit Madan Mohan Malaviya: I must bow to your ruling, but I would submit for your consideration whether in a case like this, where there is no third reading provided for, a Member should not be given an opportunity to have his full say on a subject of this importance. I shall not go very much beyond what I have said. I wish to ask my Hindu friends to remember that they owe a duty, even a more heavy duty than the other Members of this Legislature, and that they should not be inflicting a wrong upon the community by passing a measure of this importance in the manner in which it is sought to pass it.

Mr. President: What can they do?

Pandit Madan Mohan Malaviya: They can oppose it.

Mr. President: They have no power to reject it.

Pandit Madan Mohan Malaviya: They have the power to speak and thus to record their votes, so that it may be recorded by the reporter and published in the official debates. The Governor General will, I expect, take that into consideration in giving or withholding his assent to the Bill, and it is in that view that I wish to have my full say.

Mr. President: I would ask the Honourable Pandit to restrict himself to the amendment.

Pandit Madan Mohan Malaviya: All right, Sir. Confining myself to the amendment, I wish to ask my Honourable friend Mr. Jayakar, and the Honourable the Law Member who supported the view which Mr. Jayakar urged, what is it that this Bill is meant to deal with? It is meant to deal with the estate of a person who has died without leaving a direct male issue. That person was the owner of the property. Is it given to the Honourable the Law Member or my friend Mr. Jayakar or any other Member of the Assembly to say that the property of a certain person shall be given to B and not inherited by A. Is it not the case that the law under which the deceased owner lived must decide to whom the property shall go. It is not a matter in which the legislature can intervene and change the order of succession. When A died, as was pointed out, by my Honourable friend Mr. Chetty, he died in the full conviction that the order of succession to his property would be what it had been for ages. It did not matter whether a widow intervened with a limited estate; it did not matter that the daughter intervened with a limited estate; he knew that after the widow and the daughter, would come the daughter's sons and the other line of heirs, among them *gotrajas*, the persons whom Mr. Jayakar ridiculed. The limited character of the estate of the intervening heir is not the thing that determines to whom the property shall go. It is not for any one to say whether he will give the property to one set of heirs or another. That man died in the conviction that the property would be inherited in a particular line and it is not right for any one, even for a Legislature, to say that that property shall be inherited in a different order. I submit, Sir, there is a great deal of force in the amendment which Mr. Chetty has moved because, if this Bill should unfortunately ever receive the assent of the Governor General, though I earnestly hope it will not, the Legislature must give a man a chance to know where he stands. If this Bill becomes law, a Hindu will know that, before he dies, he should execute a will and lay down what the order of succession to his property shall be. If he disagrees with the order of succession which is now going to be laid down, it will be open to him to execute a will and to provide in it how his property shall be inherited. What you are now seeking to do is to vary the order of succession to the estates of those who died long before this Bill will ever become law. I submit this is a wrong for which there is no justification and no defence. If this Bill becomes law, the very least that the Hindus would expect is that, before a man dies, he should have the opportunity to express his intention in a will as to what the order of succession in his case should be. In that view I think the amendment deserves the support of the House, but I hope that, even when that amendment has been passed, many Members will have expressed their opinion that a Bill like this should not receive the assent of the Governor General.

Pandit Motilal Nehru (Cities of the United Provinces: Non-Muhammadan Urban): Sir, I rise to speak on this motion with a considerable

[Pandit Motilal Nehru.]

amount of reluctance. That reluctance arises from the fact that my sympathies as a Hindu and as a social reformer are entirely with the Bill, but as a lawyer I am afraid I can not support the Bill as it is and am compelled to support the amendment of my friend Mr. Siddheswar Prasad Sinha. In this conflict of duty, I have heard the debates with very great attention and care and in the result have made up my mind to remain neutral. I wish to give a higher place to my duties to society than to my profession of law, and if I rise to speak at all it is because I wish that I may not be taken for those whose views my friend Pandit Madan Mohan Malaviya has expounded. As I have stood up to speak, it is up to me to explain why I am in favour of the amendment. The Honourable the Law Member has put the whole case very fairly on both sides and he has left it to the House, as he is bound to do, to decide whether they would protect reversionary heirs or they would not.

If they intend to protect reversionary heirs, then the amendment is necessary, but if they do not, the amendment is not only not necessary but quite out of place.

It seems to me, Sir, that both my friend Mr. Jayakar and the Honourable the Law Member have not sufficiently considered the contingency which was mentioned by my friend Mr. Aney. I am afraid my friend Mr. Aney was not understood when he put the case of a person who was not a reversioner but an heir who was debarred under the provisions of this Act from asserting his title if he happened to be out of possession for some years after the death of the prepositus. That point was really answered by the late Law Member in the other House when he said that the Bill cannot possibly be taken to be retrospective in its effect. That is to say that nothing contained in this Act will deprive any one of a vested title, and I take it that the answer given by the late Mr. S. R. Das referred to such title. But it is not as a matter of fact or as a matter of law true to say that in every case there are reversioners after the widow. You omit to take into consideration the fact that there may be no widow, and a man may die without leaving a widow or sons or daughters but a paternal uncle. I am taking the case of the first man who would be deprived under this Bill. Under the existing law of inheritance, the paternal uncle comes after the father's father. This Bill seeks to put the female heirs between the father's father and the uncle. It cannot be said on any consideration of natural justice or close relationship, that a sister's son is preferable to a first cousin's son. Under this section, i.e., clause 2, a sister's son would supersede not only the paternal uncle but the paternal uncle's son who would be first cousin of the deceased, so that it is possible but for the interpretation which was given in the other House by the late Mr. S. R. Das, that this section would exclude even a male succeeding to a male who had died before the passing of this Act. But such a contention would not be allowed by any Court, so that matter may be allowed to rest there.

Then comes the question of the intention of the man, which has been referred to by my friend the Law Member. However true it may be that only God or the Devil may know the intentions of a person, learned Judges have always tried to find out intentions without the aid either of God or the Devil, and they have laid down certain rules for getting at those intentions. As my friend Pandit Malaviya has put it, it is to be presumed

that everybody knows the law, especially the personal law under which he lives. Every man of property naturally would concern himself with the succession to his property after his death. If he does not, which would be highly unnatural, does not the law presume that the man knew how his property would go? Now, it has been said,—I cannot lay my hands on the spur of the moment on the case—by an eminent judge that no man dies without making a will. It seems a very extraordinary proposition, but he explained it by saying that the will of a man who dies without leaving a testamentary document is the law of succession by which he is governed. If he intends his property to go in the order which the law lays down for him the law is his will. He makes no formal will because it is unnecessary to make any, and therefore it is said that the man who has not left a testamentary document, which is called a will, has declared his will to be precisely the same as the law of inheritance by which he is governed. Therefore I quite agree with Mr. Chetty and my friend Pandit Malaviya when they say that it is defeating the intentions of the man whose property is left. My friend Mr. Jayakar has given instances which made the whole thing appear ridiculous. For instance he has said the man who dies leaving property would not have thought of all the three hundred and odd reversioners and wished that his property should go exactly in the order laid down. That is perfectly true, but it is easy to cite other cases. Take the case of a paternal uncle or first cousin. Such cases have come within my experience at the Bar—an experience extending over more than forty years—when I have had to deal with hundreds, if not quite a thousand cases, of partition and cases of Hindu inheritance. There is nothing commoner in the United Provinces than a partition between uncle and nephew when they don't get on together, the uncle being the head of a mercantile or banking business. Well, the nephew happens to have no children, no issue, but has a widow. Here is the business which he has been running with his uncle for some time until they differed from each other, but he feels that when he is gone only the uncle can run it for him, the widow or the daughter's daughter cannot. Therefore, he generally leaves the widow, for she must come for her life interest, in charge of her uncle, and after that he leaves it to the law of succession which secures his object. There are no doubt, as my Honourable friend said, some persons more like monkeys on a tree than real heirs on the family tree. It is more likely that the uncle, or the uncle's sons or the uncle's sons' son would be living at the death of the man than father's father's father and so on. Thus the best person whom the nephew of my example would think capable of managing his property after him would be his uncle or his first cousin. Now, if knowing that—and he must be deemed to know it because that is the law by which he is governed—he dies without making a will, it must be taken that he did not wish to dispose of the property, away from the uncle. If he did, he would have made a will. || We need not go into the question of intention in the case of very distant relatives, but as I have said there are very near relatives also who are concerned. That being the case, I entirely agree with the argument that you are going against the will of those persons who have died recently, that is to say shortly before the passing of this Act, and who have left near relations, as nephews and uncles and uncle's sons. For that reason I submit that it is a matter of law and fairness that this Act should only apply to cases where the male whose property is in dispute has died after the passing of this Act. That is all I

[Pandit Motilal Nehru.]

have to submit. It does not concern me in the least what the vote of the House is going to be. I am not going to vote in this matter at all, because if I vote for the amendment I delay the succession of these female heirs, such as daughter and daughter's daughter for whom I have every sympathy, and if I vote against it, I shall be doing so against my instinct as a lawyer.

Pandit Madan Mohan Malaviya: Therefore vote according to your experienced judgment.

Pandit Motilal Nehru: If I vote for the amendment, I vote against my wish. If I vote against it I vote against my opinion as a lawyer. There is a conflict between the wish and the opinion.

Maulvi Muhammad Shafee (Tirhut Division: Muhammadan): My justification in rising to speak on this question is one of the principles just now enunciated by the Leader of the Nationalist Party, Pandit Madan Mohan Malaviya. This is really a question which concerns the Hindus and those who are governed by *Mitakshara* law and he rightly asks those gentlemen who do not belong to that community not to lend their support either to the one view or the other. As I find, Sir, that this principle is a very sound one and as it is the only principle which in my opinion would tend to establish good relations between the several communities represented here, I entirely approve of it. I think I should show my approval of the principle enunciated by our revered Leader, Pandit Madan Mohan Malaviya, by acting up to it and therefore I would abstain from voting either way.

Nawab Sir Sahibzada Abdul Qayyum (North West Frontier Province: Nominated Non-official): Sir, all that I have to say, is that as a Musalman I have no right to interfere in a matter like this which concerns the Hindus alone, and I think all the Muslim Members of this House should remain neutral.

An Honourable Member: No, certainly not.

Nawab Sir Sahibzada Abdul Qayyum: My reason for this is, that, as far as possible, we Hindus or Muslims should not touch these divine laws, laws on which our religions are based. These law were not framed by ordinary legislators like ourselves, having no spirituality about them. (Laughter.) They are based on divine inspiration and divine guidance. If we, humble as we are in our respective positions, were to interfere with these divine laws, we do not know where we should be. We may not know the secrets and the real value and merits of those laws. Perhaps we have not reached that stage of high spiritualism, where we can understand and appreciate the soundness of these laws. It is a very dangerous thing to touch or upset them. As a matter of fact it will be destroying the very root of religion. For instance if some Muslim, or if my Honourable friend who just now said, 'no', were to get up and suggest that we must revise some chapter of the *Koran*, or that it should be repealed by this Legislature, I should certainly oppose it and should object to that law being revised or repealed in a House like this. If there is a tendency to be free from the shackles or chains of religion, there is no reason why a man should not declare himself a non-Hindu or a non-Muslim and choose his own line of inheritance or make a will according to his own desires. But why should he enact a law for others, who believe

in their religions and who believe in the correctness and soundness of their religious laws including the law of inheritance? People like my friend Sir Hari Singh Gour, may perhaps be able to enact a new law or religion or something of the sort, for such people who want to be free from these religious laws, but this is not the House where measures of this kind should be discussed. As I have said before this is only a piece of private advice. For the rest my Hindu brethren in the House may do as they like in this particular case. I am not going to give my vote one way or the other and will also advise my Muslim friends to follow the same course.

Mr. B. Das: Sir, I beg to move that the question be now put.

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

The motion was adopted.

Mr. President: The question is:

"That in sub-clause (3) of clause 1 of the Bill as amended by the Council of State for the words 'of males not held in coparcenary and not disposed of by will', the words 'not held in coparcenary and not disposed of by will of males dying after the passing of this Act' be substituted."

The Assembly divided:

AYES—14.

Acharya, Mr. M. K.
Aney, Mr. M. S.
Ayyangar, Mr. K. V. Rangaswami.
Chaman Lall, Diwan.
Chetty, Mr. R. K. Shanmukham.
Dalal, Sardar Sir Bomanji.
Iyengar, Mr. A. Rangaswami.

Melaviya, Pandit Madan Mohan.
Misra, Mr. Dwarka Prasad.
Moonje, Dr. B. S.
Singh, Mr. Narayan Prasad.
Singh, Rai Bahadur S. N.
Sinha, Mr. Rajivaranjan Prasad.
Sinha, Mr. Siddheswar.

NOES—48.

Abdul Matin Chaudhury, Maulvi.
Abdullah Haji Kasim, Khan Bahadur
Haji.
Alexander, Mr. William.
Badi-uz-Zaman, Maulvi.
Bhargava, Pandit Thakur Das.
Birla, Mr. Ghanshyam Das.
Crawford, Colonel J. D.
Das, Mr. B.
Das, Pandit Nilakantha.
Dutt, Mr. Amar Nath
Gavin-Jones, Mr. T.
Ghazanfar Ali Khan, Raja.
Gulab Singh, Sardar.
Haji, Mr. S. N.
Hans Raj, Lala.
Hira Singh, Brar, Sardar Bahadur,
Honorary Captain.
Hussain Shah, Sayyed.
Ismail Khan, Muhammad.
Iswar Saran, Munshi
Jayakar, Mr. M. R.
Jinnah, Mr. M. A.
Jogiah, Mr. V. V.
Jowahir Singh, Sardar Bahadur
Sardar.

Kunzru, Pandit Hirday Nath.
Laluri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Lindsay, Sir Darcy.
Mitra, Mr. S. C.
Mukherjee, Mr. S. C.
Mukhtar Singh, Mr.
Murtuza, Sahab Bahadur, Maulvi
Sayyid.
Naidu, Mr. B. P.
Neogy, Mr. K. C.
Pandya, Mr. Vidya Sagar.
Purshotamdas Thakurdas, Sir.
Rafique, Mr. Muhammad.
Rahimtulla, Mr. Fazal Ibrahim.
Rang Behari Lal, Lala.
Roy, Mr. K. C.
Roy, Rai Bahadur Tarit Bhusan.
Sassoon, Sir Victor.
Shah Nawaz, Mian Mohammad.
Simpson, Sir James.
Singh, Kumar Rananjaya.
Singh, Mr. Ram Narayan.
Sikes, Mr. E. F.
Yakub, Maulvi Muhammad.
Yamin Khan, Mr. Muhammad.

The motion was negatived.

Amendments* made by the Council of State in clause 1 were agreed to.

The amendments† made by the Council of State in the Title and the Preamble were agreed to.

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.

THE INLAND STEAM VESSELS (AMENDMENT) BILL.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): Sir, I beg to move that the Bill further to amend the Inland Steam Vessels Act, 1917, be referred to a Select Committee consisting of Mr. Jamnadas Mehta, Sir George Rainy, Mr. Sessa Ayyangar, Mr. Gaya Prasad Singh, Mr. Anwar-ul-Azim, Mr. Abdul Matin Chaudhury, Mr. S. N. Haji, Mr. W. S. Lamb, Colonel J. D. Crawford, Rai Bahadur Tarit Bhusan Roy, Mr. Ghazanfar Ali Khan, and the Mover, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be six.

Sir, this Bill has been before the country for more than three years. I had the honour of introducing it in the predecessor of this House, and after its dissolution, the Bill was re-introduced in the present House. Last year about this time this House adopted a motion for circulating the Bill for the purpose of eliciting opinions thereon. The opinions are now in the hands of Honourable Members. Now speaking for the third time, if not the fourth, on this measure, I do not think I shall be justified in taking up more than a few minutes of the time of this House.

The main object of this Bill is to arm the executive authority with power to control the rates and fares chargeable by the inland steamer services. There are three provisions, firstly that maximum limits should be fixed by the Government to the rates and fares in order to protect the public against excessive demands; secondly, that minimum rates should also be fixed in order to prevent rate wars of which we have had very unfortunate experience in the past; and the third point raised in this Bill is that advisory committees should be set up where representatives of the public and nominees of the Government, as also of the steamer services, could meet and discuss all questions relating to public grievances.

Sir, I have no desire to repeat what I said on previous occasions, but I would just deal with one point to which reference was made by the Honourable Sir George Rainy on the last occasion. He said that it would be necessary at some stage or other during the progress of this Bill to examine the rates that actually prevail and to find out how far they are excessive. It is not my intention, nor do I think the House wishes that I should go through elaborate details in connection with this particular point and prove to this House as to how many instances there are in which the charges levied by these services could be described as excessive. I have got with me the fare tables, the tariff schedules, from which I could prove

* Vide p. 710 of these debates.

† "In the title, the word 'deceased' was omitted and the word 'male' was inserted after the word 'Hindu'."

"In the preamble, the word 'deceased' was omitted and the word 'male' was inserted after the word 'Hindu'."

to the entire satisfaction of the House that the charge I have brought can be thoroughly substantiated. Without going into specific details, I would say that there are instances in the latest fare tables where third-class fares stand at least 50 per cent. higher than the railway fares which obtain on the Eastern Bengal Railway; and as this House knows, the third-class fares on that Railway have not been reduced in recent years. Next, Sir, I find that the fares have in certain cases been increased almost by 100 per cent. between the years 1914 and 1928. Then coming to freight rates, I find that in certain cases the freight rates have been increased by 50, in certain others by about 100 per cent., and in certain others again by as much as 150 per cent. during the last few years. My Honourable friend Mr. Abdul Matin Chaudhury, if he gets an opportunity to speak on this motion, will prove with reference to documentary evidence that in one particular case the rate of freight chargeable on a particular commodity was raised ten times within one year. He has got copies of a correspondence that has passed between the Assam Government in the Forest Department and the Steamer Services, in which the Assam Government people have complained of this fact, and I should not be surprised if there is a suit brought at the instance of the Assam Government against the Steamer Services to recover excess charges made by the latter.

Now, Sir, there is one other point to which I would refer in this connection, and that bears on the question as to how far the Government are justified in seeking to regulate the rates and fares chargeable by private concerns. I find on reference to a Government publication, a monograph on Indian Railway Rates, that at one time the Eastern Bengal Railway actually owned the steamer services. The steamer services as a matter of fact link up the railways in my part of the country, and they are as important a means of communication as the railways are. Indeed, there is one district included in my constituency, from which my Honourable friend Haji Chaudhury Mohammad Ismail comes, which has not got one single inch of railway, and that district has to depend entirely on the steamer service. Now, Sir, the State Railways at one time used to own and run the steamer services in this part of the country. Then there came a time when they withdrew from the field, leaving it entirely in the possession of the present powerful combine. I am talking of Bengal particularly, and also of Assam. Now, Sir, it appears there are very elaborate agreements between the steamer companies and the railways which are State-owned—that is, the Eastern Bengal Railway and the Assam Bengal Railway: these agreements regulate the relations between the steamers and the railways in Bengal and Assam. It does not seem that, when the Government decided to withdraw from the field, they took sufficient precautions to safeguard the interests of the public. We have not got all the details of agreements here, which were entered into between these steamer services and the railways, but it seems that there was no stipulation made under which the Government could safeguard the interests of the public who utilise the steamer services. Now, what I maintain is this; that the State which owned these steamer services, and which, as a matter of fact, made over its own fleet of steamers to a private combine and left it practically in uninterrupted possession, so far as steamer services went, in the waterways of Bengal and Assam, failed to impose the just and requisite conditions which could adequately safeguard the public interest. Had they done so, I would not have had the

[Mr. K. C. Neogy.]

necessity of bringing forward this measure. As for the nature and extent of the grievances, I have related them on more than one occasion and I have no desire to go into them at the present moment. But I would draw the attention of the House to one recent evidence, and that is a Resolution which was passed only yesterday by the Bengal Legislative Council by a very large majority asking for an elaborate inquiry into the working of the steamer services, particularly with regard to the regulation of rates and freights. Sir, I do hope that this House will permit this Bill to go to Select Committee where all the necessary details could be examined—details to which references have been made in the opinions that have been collected—and that this House will not object to the principle that underlies this measure.

Mr. T. A. Chalmers (Assam: European): Sir, I claim to have some personal knowledge of these inland waterways. I have used these steamers in Assam and Bengal as a passenger and as a shipper of goods for twenty-five years, and in addition I have used my own launch on the rivers of Assam and have navigated it on the thousand-mile river journey between Assam and Eastern Bengal to Calcutta. For this reason I say that I do know some thing about the conditions of these rivers, of their navigation, their swirling currents and their shifting banks. I should like to point out, or rather remind the House, that the first European built vessel to go to Assam was the "Charlotte Shellung" which went with Mir Jumla in 1663. The first steamer went up some time between 1834 and 1835. Those first steamers were not very successful because the conditions of steam navigation were not very well understood. About 1847 the Government started steamer services. This, like that of the American Shipping Board, was not a great success. Later on, two shipping companies started and they gradually introduced a daily service of steamers, and it is these steamer companies against which this Bill is primarily aimed. I would also like to point out that Bengal got its first railway in 1856, while Assam had to wait another fifty years before it got a railway worthy of the name. I mention these facts just to point out that, for over fifty years Assam was entirely dependant upon these steamer services, and there are still large portions of Assam which have no railways and whose people would suffer grievously if any action taken by this House had the effect of stopping these services or curtailing the frequency and efficiency of these services. I would also point out that these steamer companies did all the pioneering work, surveyed these rivers, took all the risks, and have done more to develop Assam than any other separate organisation. Now, Sir, in all these years I have not heard of a single public meeting which has protested against the rates or freights of these steamer companies in the whole of Assam; and even in Bengal I know of only one case in Barisal which Mr. Neogy has brought to the notice of this House. Now, what I would point out is that, if there has been any serious public grievance in Assam, my Honourable Swarajist friends from Assam, Mr. Phookun and Mr. Dutt, would have been here to-day to see that this Bill was put through. The mere fact that they are not here rather goes to show that my contention is correct. On the other hand I do remember that the Assam Legislative Council forced the Government to sell some of their steamers—I must say they were not public carriers, but still they were steamers—because they reckoned that these river steamship companies would do their work much more efficiently than

Government could do. Even in Eastern Bengal I have not heard of any protest, from the really big trade centres of Naraingunge and Dacca—I mean no public protest. I can quite believe that our friends in Barisal had a grievance. I am sure they have. I was very surprised to hear that these steamer companies had not done something towards rectifying those grievances; but even if they had, I do not think it would have made any difference to our Honourable friend bringing this Bill forward. The idea behind this Bill is to enable Swadeshi steamer companies to operate.

An Honourable Member: Why not?

Mr. A. Rangaswami Iyengar (Tanjore *cum* Trichinopoly: Non-Muhammadian Rural): Is that such a sin?

Mr. T. A. Chalmers: There is plenty of traffic for both. We have got figures which show that only half the traffic available is carried by river steamers. The balance is carried by country boats. These boats take a long time, and as the wages of labour increase they will become still more inefficient than they are at present. Therefore, there is room for more steamer companies, Swadeshi, if possible. But anyway there should be free competition. It is this question of free competition which has forced my Honourable friend to bring forward this Bill. He maintains that these steamer companies at present want to start a rate war

Mr. K. C. Neogy: They did so in the past.

Mr. T. A. Chalmers: Yes, they did, and I am almost sure that they would again do so, and his remedy for it is to have a minimum rate. Well, I am sure that, if he had a minimum rate, it would induce new companies to venture on this trade. Even if they did not use the power under this Bill to have a minimum rate enforced, the mere fact that they could ask for a minimum rate would give them strength and induce them to come forward and start a new steamer service. In this respect I would like to support the opinion of the Bengal National Chamber of Commerce. Anyway, we see eye to eye up to a certain point. I would say that this minimum rate should not be enforced except on the application of *bona fide* new steamer companies and that this minimum rate should be enforced only on the routes they intend to operate.

Then comes the question as to how long this artificial minimum rate is to remain in force. I would fix the period of years, say four or five years, after which I think the natural course of trade should be encouraged. That is my opinion as far as minimum rates go.

As regards maximum rates, I am afraid that I am in strong opposition to my friend Mr. Neogy, and I oppose him simply on the ground that they would have very disastrous effects on the people living on the higher reaches of the river in Assam. If you fix a maximum rate, it will have to be a close rate to be effective. Now, what will happen when the river drops and shoals? The difficulties of navigation would increase and consequently the cost of operation. In fact, it will make the position so difficult that the steamer companies would probably find that it is not paying them, and so they will not ship goods to that side; they would merely concentrate on the points below, where they could make more profits. This would force the people living above the shoal to hurriedly improvise other methods of river transport at great cost and expense; that is to say, they will have to take to country boats. Now, let us take the case of Barisal; suppose we fixed maximum rates for Barisal, and the steamer companies find the rate so high that they find it unworkable, they would

[Mr. T. A. Chalmers.]

simply cut out Barisal. That being the case, how could you induce new companies to start a new service under those conditions? It is for these reasons that I object to the fixing of maximum rates. I would again like to draw the attention of the House to the fact that we in Assam have had no difficulty in fixing rates of freights with these steamer companies. The steamer companies know perfectly well, that, if the public feel that they are being unjustly dealt with, they will combine and start some other form of transport on the river, and it is because these steamer companies know this, in addition to the fact that they have for over half a century conducted their business on the best British lines of efficient service and mutual benefit, that they have been able to maintain the good will of the people in our province.

Rai Bahadur Tarit Bhushan Roy (Bengal Mahajan Sabha: Indian Commerce): Sir, I frankly confess that I shall not be justified, at the fag end of the day, to make a long speech regarding the matter which has been placed before the House by my Honourable friend Mr. Neogy. Sir, I am vitally interested in the inland trade of Bengal which, I have the privilege to represent here, and I shall approach this question in a spirit of fairness. As a practical business man, I would have hesitated to accord my support to the principles of the Bill unless I was satisfied that a strong case had been made out by my friend Mr. Neogy for Government control. I have followed with the closest attention the debate which took place about this time last year in connection with the motion for circulation of this Bill. The Honourable Sir George Rainy expressed the view at that time that there was no occasion for Government intervention in a matter of this kind unless a strong case had been made out. The Honourable Sir Walter Willson also pointed out that, unless the inland steamship companies were monopolistic in their activities, there was no justification for interference. For myself, Sir, I am a strong advocate of non-interference with private trade, but I say this that, it is a well-known fact that so far as the India General Navigation and Railway Company and the Rivers Steam Navigation Company are concerned, with whom I have to come into the closest possible contact in connection with the consignment of goods every day by the members of my Association, they do enjoy a virtual monopoly of the traffic in Bengal

Mr. B. Das (Orissa Division: Non-Muhammadan): That is the point which I desire to press before the House.

Rai Bahadur Tarit Bhushan Roy: In fact, I myself started an indigenous limited company in Bengal, and we struggled on for years until our entire fleet was taken over for military purposes during the War. There is another company which is now operating in Bengal, and that is the East Bengal River Steam Service, of which some members of my family are the managing agents. They carry goods and not any passengers. I desire to make it clear that, so far as the conveyance of passengers is concerned, the Navigation companies enjoy a monopoly in Bengal. Sir, the Honourable Sir Walter Willson had tried to make out that there was competition between the inland navigation companies and the country boats which ply in the rivers and carry passengers. I come from Eastern Bengal. I live on the river Padma and speaking from my experience, I do venture to say this with confidence, that no one thinks of resorting to these boats for the purpose of carrying him on the river. Facts would not bear

out Sir Walter Willson. The inland navigation companies, in fact, embarked on a policy of competition and a rate-war in 1890 or 1891 in Bengal, with the result that the State service which used to operate in Bengal had to give up the entire concern in disgust as has been pointed out by my Honourable friend, Mr. Neogy. The entire fleet has been taken up by the inland navigation companies which are now working in Bengal. I need not labour this point any further because I think there is a consensus of opinion that the country boats never ply in the rivers like Padma and various other rivers in Bengal with which Bengal is intersected. Sir, it is a fact that, for ousting the State service from Eastern Bengal, handkerchiefs and sweets were offered to us and no fares were charged, and Government were obliged to make over the entire State service to the inland steam navigation companies. I do not for one moment suggest that the service which they are carrying on for passenger traffic is at all bad. They are very good services. They have been greatly improved. All sorts of arrangements have been made and are being made in order to meet the demands of the travelling public. I am grateful to them for what has been done. But more remains to be done. I am referring to this just to show that they enjoy a monopoly with regard to the carriage of passengers. If I have succeeded in establishing the fact that these inland navigation companies enjoy a monopoly in this respect, I am sure the Honourable the Commerce Member will agree with them that Government should interfere and control the regulation of fares with regard to these private companies.

Sir, I desire also to make it clear, that they represent public utility services. With regard to the carriage of goods, the position of Mr. Neogy is somewhat weaker. In fact, some figures were placed before the House in February last by Sir Walter Willson just to show that there was competition between the boat traffic on the one hand and the India General Steam Navigation Company and the Rivers Steam Navigation Company on the other. There would have been much in this point, if it were not for the fact, as has been pointed out by my Honourable friend Mr. Chalmers, who had just preceded me, that there are plenty of goods in Eastern Bengal and Assam for these companies to carry. What I do submit is this, that there is no competition between these steamship companies and the boatmen and the indigenous Indian enterprise in Bengal or in Assam. There are more goods than they can deal with at present. If it were not the case, the limited companies with which I was connected and which are still run as indigenous enterprise would not have survived so long. They would have been strangled and crushed long ago. The boatmen could not be in a position to carry goods at all through the mighty rivers in Bengal and in Assam but for the fact that more goods have got to be carried than these Navigation Companies can handle. That is the position. Can any one persuade himself to believe for one moment that the merchants and consignors would at all think of sending their goods in boats through the dangerous rivers, exposing themselves to the inclemencies of the weather, if it were not for the fact that it was impossible for them to get space and send their goods through these carrying companies? Besides, it is a well-known fact that no insurance is taken in regard to goods which are carried in country boats. That being so, I think a case has been made out for the acceptance of the principle underlying this Bill.

Regarding the appointment of Advisory Councils, I find that opinion is divided. As a matter of fact, in 1921, while I was in the Bengal

[Rai Bahadur Tarit Bhusan Roy.]

Legislative Council, there was a full-dress debate regarding this question, and the Member in charge of the Department of Commerce had expressed the view, which I am placing before the House in his own language:

"It is of course true that the comfort and efficiency of the steamer services is a matter of some public interest, and we can if we think it justifiable make representations to the steamer companies in compliance with any requests that are made in this Council."

Sir, I venture to submit that representations have been made times out of number but with no result.

Mr. T. A. Chalmers: May I point out to the Honourable Member that there are Advisory Councils in Assam, a steamer and railway advisory council which is elected by the Legislative Council in Assam?

Rai Bahadur Tarit Bhusan Roy: I thank my friend for that information. It strengthens my position. I was speaking of Bengal and was referring to the debate in the Bengal Legislative Council. The whole question was regarding the provision of waiting rooms for the comfort and convenience of the passengers who use these services. There was practical unanimity of feeling regarding this matter. Sir, the feeling was very strong in regard to the question of waiting rooms, and the Honourable Member in charge of the Department of Commerce in Bengal said at that time "Companies have told us that they took up this question so far back as 1913". That was in 1921 when this statement was made by the Honourable Mr. Kerr in the Bengal Legislative Council. You will be surprised to hear that my river station which is situated in a village just on the river Padma has not been provided with a waiting room even in 1929. There is absolutely no shelter for passengers,—for women and children,—from the blazing sun, from rain and storm or from the rigours of the chill in winter nights. I have myself been to many of the stations all along where there are absolutely no waiting rooms. In January 1926, the Managing Agents said, in reply to a letter addressed to them from Barisal, that the matter was being referred to Government and that they would increase the number of waiting rooms gradually. I do not know whether these Managing Agents were referring to the state of things which prevailed in Barisal, where there is no railway. But I know it as a fact that, so far as the Padma service in Eastern Bengal is concerned, I have not come across any decent waiting room in any of these stations yet. The reason put forward in 1921 for not constructing these waiting rooms was that the price of materials had not gone down to enable the companies to put them up. I ask you seriously whether this excuse can appeal to any right-thinking man? I could have placed more facts and figures which are at my command. I reserve them for the next opportunity. I do not desire to take up the time of the House any longer, but I hope the principle underlying the Bill will be accepted.

The Honourable Sir George Rainy (Member for Commerce and Railways): The Honourable the Mover, Mr. President, has, I think, displayed, almost to excess, the admirable virtue of brevity. I had hoped that on this occasion at least I should hear all about it, and that his speech would be crammed with facts and figures, instead of which all I got from him was a tacit assumption that he had merely got to move his motion and the rest would happen automatically.

Mr. President, I do not want to make a long speech to-day and I think perhaps my most convenient starting point may be what I said on the

occasion when the Bill was last before the House. I said then that Government would reserve their opinion until after the Bill had been circulated and opinions elicited, but I mentioned certain difficulties and objections which it seemed to me would have to be met. In particular, I said that, to introduce State control of rates and fares where no monopoly had been granted, was something of a new principle, or at any rate a novel application of a principle. Now when the opinions of Local Governments were received, since this is a point to which I personally attach very great importance, I gave them all the examination I could from the point of view of principle, because in these matters of State control of private enterprise, unless we are guided by principle and by clear and definite ideas as to the justification for any action taken, there is always a danger of capricious and wanton exercise of the powers conferred upon Government. In the case of the rivers of India we start from a state of affairs in which the rivers are free to all, and anybody who has a boat or vessel of any kind, can start business and convey goods and passengers from any one point in the river to any other point. Obviously as long as that state of affairs existed, when there was no means of conveyance by water other than the country boat, this question of Government control could never have arisen, and it has arisen in connection with the development of the steamship services. The points in which the steamer service differs from the country boat service may perhaps be said to fall under four heads. In the first place speed becomes a matter of great importance, and the steamers draw away from the country boats the traffic for which speed is essential. In the second place, the steamers are in a position to provide a much more regular service, their vessels starting from and arriving at a given station on fixed days and at fixed hours. In the third place, the vessels are much larger and in the fourth place, with the introduction of larger vessels, it becomes necessary to take greater precautions about the surveying of the navigable channels and their buoying and lighting. Now, for services of that kind, in the nature of the case, although there may be competition, there cannot be so many competitors. A steamer service means the investment of a considerable amount of capital, and under conditions such as exist in the delta of Bengal, I think there must always be a tendency towards the establishment of a practical monopoly, either by amalgamations between competing companies who find it unprofitable to carry on their rate wars, or by the elimination of the weaker companies and the survival of the stronger only. This is the more likely to happen when, as in Bengal, the buoying and lighting of the navigable channels is not provided for by Government, or is provided by Government only in a very few cases, but for the most part is left to be done by the steamship companies themselves. The survey of the channels means the creation of a very large organisation, and the work has to go on continuously, and this involves the investment of larger capital. That being so, the company which provides for the buoying and lighting of the channels must look forward to some sort of a monopoly, because otherwise it would not be worth its while to undertake the service. I think, Sir, that the last speaker, my friend Mr. Tarit Bhusan Roy, has explained very clearly in what respects it is true to say that the steamship companies in particular areas may enjoy a monopoly at present. It is, however, only a qualified monopoly. In the first place over large stretches of the rivers,—I might take as an example the whole course of the Ganges where it runs through my own province of Bihar and Orissa—the river services are exposed to the

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competition of the railways, for the railways run parallel to the river, at a short distance on either side. That being the case, it is obvious that the rates or fares which steamer companies can charge will be regulated by railway competition, and there is no sort of monopoly there. Then there is the question of the goods traffic and here I do not altogether agree with my friend from Eastern Bengal. So far as the slow and heavy goods traffic is concerned, there must always be competition from the country boats. Where speed is of importance, the country boats are not in a position to compete, nor can they compete for the passenger traffic, but if a good deal of the goods traffic is of a kind where speed is not of great importance, the country boat does in effect control the rates which steamship companies can charge, for there is a limit to the amount merchants will pay for rapid transport, and if the steamship companies raised their freights above a certain level, they would lose their traffic. I might add that very recently fresh competitors against the steamship companies have appeared in the shape of motor launch services, but they are still a novelty and it is too soon to say what their effect may be.

What it comes to is this, that so far as Bengal is concerned—and I think for the moment that is all we need consider for there are no complaints from Burma or Assam—so far, therefore, as Bengal is concerned, the complaints come from a particular area, namely, Barisal and the South-East of the province and the grievances of which they complain, seem to be confined to the passenger fares charged and to the rates for a particular class of goods. My Honourable friend Mr. Neogy referred to the passenger fares quoted in a pamphlet, which he circulated to Members of this House some time ago, and he said quite correctly that some of the fares were about fifty per cent. higher than the third class fares of the Eastern Bengal Railway. I quite admit that, *prima facie* these fares do look very high.

Now in the position which I have tried to describe, although there is no formal monopoly granted, a qualified monopoly in certain respects has come into existence. What then ought the attitude of Government to be? My own feeling, Mr. President, is this, that it is not possible for Government to take the line, that since this is a case of private enterprise, all interference by Government is out of order. One cannot proceed quite so summarily or simply as that. Government are not prepared to say that the Executive Government of the country ought not to have the power to intervene for the protection of the public in a case of that kind, if sufficient reasons are made out for their interference. On the other hand, I should wish to guard myself carefully from saying that there is at present any grounds for actual intervention by Government so far as the steamship companies operating in Bengal are concerned. I think it is necessary that that point should not be prejudged, because if the Bill became law, that is one of the points which Government would then have to examine, if an application were made to them, and I must point out to my Honourable friend, the Mover, that in addition to proving that on particular routes the passenger fares are very high, it would also be necessary to show the total profits of the companies were excessive. It is obvious indeed that in the areas where railway competition is intense the steamship companies cannot raise these fares above the level at which they are held by railway competition, and if so it may be necessary to charge lower rates and fares on those routes where competition of that kind is absent. It is not sufficient, therefore, merely to establish the fact that compared with railway

rates and fares the steamship rates and fares look high. It comes to this, therefore, that Government have decided that they ought not to oppose the motion of my Honourable friend that this Bill should be referred to a Select Committee. (Hear, hear.) They do so on the basis that 'he Bill is a permissive Bill. It would have been a different matter if it had purported to impose on Government an obligation to interfere, and I do not see how, on the case put forward by the Mover, Government could have accepted an obligation of that kind. What the final attitude of Government to the Bill may be will of course depend on the shape in which it may emerge from the Select Committee. What I have said brings me to the actual methods of dealing with the alleged grievances which are proposed in the Bill, but there is one method which is not mentioned in the Bill, but which I think perhaps might be worth the attention of the Select Committee, I mean, publicity. I noticed in some of the papers and in the pamphlet circulated by Mr. Neogy a good many complaints by people who said they had been unable to find out what the rates and fares actually charged were. Now in all cases where it is alleged that any transport service is exploiting the public, the first line of defence for the public is publicity. It should be made clear that anybody who wants to find out what the rates and fares charged are should be able to do so at once. That is a point which the Select Committee might consider. In the Bill itself there are two methods proposed, namely, maximum and minimum rates. I think my Honourable friend, Mr. Chalmers, was inclined to think that there might be something to be said for minimum rates, but there was very little indeed to be said for maximum rates. Although I hesitate to put forward my own opinion against his, my own view is rather the converse of what he indicated. I am inclined to think that there is more to be said—if there must be Government intervention—for maximum rates than for minimum rates, although I admit that it must depend a good deal on the actual conditions prevailing in a particular area, and on the question whether the steamship companies provide an adequate service for carrying the traffic offered or whether they do not. If the existing service is insufficient to carry the traffic, then the natural remedy for any unfortunate result of monopoly conditions is that competing services should be established, and in that case the minimum rates might be useful. On the other hand if on any stretch of the river the services provided by the steamship companies was adequate for the traffic, then in that case it does not seem to me you secure any useful result at all by starting new services, and the natural remedy is the imposition of maximum rates. My difficulty about minimum rates is due to two or three different reasons. In the first place, I am as doubtful as I ever was whether you can ever make minimum rates effective. When a man is made to pay more than the maximum rate, he will come and tell you that the law has been broken, but in the case of minimum rates, it is the exact opposite. It is not in the interest of the man who has agreed to allow his goods to be carried at an illegally low rate to come and tell Government that he has broken the law; because in that case he will never get his goods carried at that rate again. What in fact you will get is the system of secret rebates growing up, and the experience of every country shows that it is exceedingly difficult to check. That is one reason why I am doubtful about minimum rates. Another reason is of a different kind, and I think I must mention it. It must be clear to any one who has read the opinions on the Bill that have come in from all parts of India that what has weighed with a good many people who supported the Bill is that the steamship

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companies, of which complaint has been made, are British companies, and it is hoped, if the Bill is passed, it will encourage the growth of indigenous companies. Now, clearly, in so far as there is room on the rivers for more companies, every one would desire that these companies should be Indian. There is no question at all about that. But in so far as it is hoped that the effect of this Bill might be to make things more difficult for the existing companies, not because of what they have done, but because of the character of their shareholding and management, in so far as that is the motive, Government have no sympathy with it at all. (Cheers.) It is one thing to take measures to protect industries so that the Indians may get a fair share in any sort of industry or manufacture, and it is quite a different thing to take measures directed against long established companies which have been providing important public services, merely on the ground of their nationality. On that point, it is necessary that I should make the position of Government perfectly clear. In fact if the desire of the House is that the steamship services should be entirely Indianised, there is really only one honest straightforward way of tackling the question, and that is, buy out the existing companies at a fair valuation. But, I would remind the House, that we shall need all the capital we can raise for the development of railways and for the development of industries of all-kinds, and if in addition to that, we have got to buy out the existing industries and transport services which are not fully Indianised, I am afraid that it is very difficult to see where all the capital is going to come from.

Mr. B. Das: By loans.

The Honourable Sir George Rainy: I think, Mr. President, that includes all that I need say on the main provisions of the Bill, but I should like to say a word or two about the Advisory Committees. My Honourable friend Mr. Chalmers told us that in Assam, there was already an Advisory Committee elected by the Legislative Council, for both steamships and railways. Where such committees do not exist at present, I think myself—and I trust that the steamship companies will not think me impertinent in offering advice on this subject—I think that in their own interests they would be well advised to have such Committees. We have them on the railways and I do not think it has done us anything but good. But it seems to me quite a different matter to impose an advisory committee by a law on all private companies, which, after all, are not under any obligation to maintain any particular service, and who are naturally entitled to select their own advisers. There is however another alternative under the law. Under the Inland Steam Vessels Act, Local Governments have power to make rules to regulate the carriage of passengers in inland steam vessels. It would be a perfectly natural and appropriate thing, I think, to provide in the law for the appointment of advisory committees to advise Local Governments how they should exercise their powers to provide for the comfort and convenience of passengers. The present view of the Government of India is that that would be the proper way to deal with the matter. Once such committees were established, I hope it would not be long before direct relations were established between them and the steamship companies by some sort of private arrangement. That however is a matter which we can discuss in the Select Committee. I will not delay the House longer, but merely repeat that Government will not oppose the motion of my Honourable friend Mr. Neogy that the Bill should be referred to a Select Committee. (Applause.)

Sir James Simpson (Associated Chambers of Commerce: Nominated Non-Official): Mr. President, I had intended to speak at some length on this measure, but as I perceive that the House is weary and as the Honourable the Commerce Member, immediately before he touched on Advisory Committees dealt with the matter entirely to my approval, I would merely associate myself with his remarks. In so far as this measure is of a discriminatory nature against the existing British interests,—and to my mind the real underlying motive of the measure is not a panting desire to reduce passenger rates, or to help or give facilities to trade, but to hinder and harass the existing companies—in so far as the motive is that, I can only offer it the most unresisting opposition, and I associate myself with what the Government Member said on that score.

Mr. K. O. Neogy: Sir, I propose to deal with the Honourable Members who have criticised this measure in due order. Coming first to Mr. Chalmers, I am not surprised at some of his observations because when I went through the rates and fares of the steamer services, I came across instances in which the tea planters enjoy special concessions in passenger and goods rates, which are denied to others. Here is an instance. On certain kinds of goods when consigned by managers of tea gardens, the rate is Re. 0-6-1. Next when booked by other than managers of tea gardens, the rate is Re. 0-10-3. I do not think I need say anything more with regard to it.

Mr. T. A. Chalmers: Is it not due to the fact that managers of tea gardens send out their goods in bulk?

Mr. K. O. Neogy: Whatever it is, you still enjoy a special privilege. The railways do not quote differential rates according to the source from which the consignments come, nor do the railway departments quote differential rates according to the capacity of people to send any quantity of goods.

The Honourable Sir George Rainy: My Honourable friend has forgotten that the railways charge reduced freight for full waggon loads.

Mr. K. O. Neogy: Nothing is said here in regard to full steamer loads. Any quantity sent by any tea garden manager is entitled to be charged at this reduced rate.

Mr. T. A. Chalmers: What are the actual facts?

Mr. K. O. Neogy: I do not know whether my Honourable friend himself knows the actual facts. The actual fact is as I stated just now.

Mr. T. A. Chalmers: The actual facts are that 99-9 per cent. of the tea is booked by tea garden managers.

Mr. K. O. Neogy: It is not tea. I am quite sure it is not tea. I am referring to something else. It is tea house sweepings and similar other things. If the Honourable Member wants to investigate this point any further, I may refer to the Goods Junction Rate Lists dated 1928, which were issued by Messrs McNeill and Company and R. S. Company Limited.

Now, Sir, I think I may come straight to Sir George Rainy. I am not going to be tempted to make a long speech, so that this motion of mine may be taken over to the next day. (Laughter.) My Honourable friend said that he had expected a good deal more of materials, facts and statistics. I thought that in the pamphlet which I have circulated last year and to which he made reference, there have been enough materials on which one could support such a Bill. Need I refer to that pamphlet once again?

[Mr. K. C. Neogy.]

There is a very good instance of how the steamer companies used to overcharge the public because of the absence of control on the part of the Government. (Hear, hear.) Here is an instance of a very circuitous waterway over which steamers used to pass for very many years. Sir, years ago the Government of Bengal short-circuited that circuitous part of the waterway, by excavating a canal at a cost of several lakhs, with the result that the total length of the waterway was shortened by more than eight miles. The steamer companies went on charging both goods and passengers on the old basis, as if the long and circuitous waterway had still existed, and this state of affairs continued for not less than eight years.

An Honourable Member: Were they British companies?

Mr. K. C. Neogy: Certainly. Then, Sir, representations were made to Government and they said: "Oh, no, we cannot interfere". Then, public meetings of protest were held and the resolutions were forwarded to the steamer companies; but nothing was done. Then a specific request for action was made to the Government stating that as a result of this illegal overcharging, the Government must have paid to its own servants by way of travelling allowance much in excess of what was really their due. And it was expected that the Government would take steps not merely to set matters right so far as the future was concerned, but also realise from the steamer companies concerned the excess charges levied in this manner. The Government however said "Oh, we cannot interfere". That is the attitude which the Government of Bengal have taken up in this matter. At last an enterprising gentleman filed a suit, a test case was brought in a civil court, and a decree was passed directing a refund of the excess fare. What happened after that? I have some steamer tickets here, and my Honourable friend Sir George Rainy might wear them as charms with his watch-chain. In the tickets from that date, they ceased to give the distance between one station and another on their steamer service. I have got a collection of these tickets, and if my Honourable friend is anxious to examine them, I will send them round. This is one instance. Then again, when I examine these tickets, I find that these companies do not observe their own rules. One of their rules is that children, as in the railway, are to be charged at half the rates of the full ticket fares. The full third class fare between two particular stations was As. 4 Ps. 3, as shown in this ticket, and the corresponding child's ticket dated 28th January between those two very stations was priced at As. 3. I am sure, Sir, my Honourable friend Sir George Rainy has a mathematician in his department, and would he kindly give us his assistance in calculating what exactly half of As. 4 Ps. 3 is, and tell me whether it is that which is charged by the steamer company for the child's ticket.

An Honourable Member: The child might have grown by that time.
(Laughter.)

Mr. K. C. Neogy: Does my Honourable friend want many more facts? I can go on giving instances like this for one hour, but I think
* P.M. the House would not like me to deal with all these matters of detail, and that the Select Committee is really the proper place for them

to be discussed. If you really challenge my case, come to the Select Committee and I will overwhelm you with evidence on these matters, if you like.

Now, Sir my Honourable friend said—I do not know on what evidence he said that—that there has been no complaint from Burma and Assam up to now. But in the collection of opinions, I find that the Indian Chamber of Commerce in Burma has supported my view. Not merely that; when I went through the collection of opinions on the Trade Disputes Bill, I came across at least one official opinion there which supports my contention. The House will remember that there has been a suggestion to bring in the steamer services within the category of "public utility services" for the purpose of the Trade Disputes Bill, and this is what no less a person than Mr. Thornton, C.I.E., I.C.S., Commissioner, Sagaing Division, writes to the Secretary to the Government of Burma:

"The inclusion of the Irrawaddy Flotilla Company, the worst monopolist in the province, as a public utility service, would also be wrong."

(Applause). That does not seem to me as if the Burmans have absolutely no grievance against the Irrawaddy Flotilla Company. As for Assam, the Honourable Member assumes that there is no complaint. I am sorry my Honourable friend Mr. Abdul Matin Chaudhury is not here. He has got, as I said in my opening speech, copies of correspondence that is at the present moment passing between the Government of Assam—mind you not the people of Assam who do not matter, but the Government of Assam—and the steamer companies, in which the Government complain that on one occasion the steamer companies charged more than ten times the usual freight, and that matter is likely to go before a Court of Law.

My Honourable friend then referred to the profits. He said: "Well, in regulating the fares and freight, we must be careful not to interfere too much with the profits". What are their profits? We know that for some time past, the powerful combines that operate in the waters of Bengal have been paying dividends of not less than eight or ten per cent. per annum; and it has been calculated by financial authorities that the reserves of one of the principal companies stand at 130 per cent. of its capital. Not merely that. A few months ago—I can give my Honourable friend references to the financial papers, if need be—a company distributed bonus: scrips at the rate of one share for every three held by shareholders, and yet this company was in a position to declare a dividend of 10 per cent. Now, if my Honourable friend takes into consideration all these factors, I am sure the actual dividend calculated upon the original capital would come within the neighbourhood of at least 20 per cent. Does my Honourable friend think that that is a fair rate of dividend to be enjoyed by companies which are considered to be public utility services?

Sir, my Honourable friend referred to the question of secret rebates that could be resorted to for the purpose of defeating the Bill so far as the minimum rates are concerned. That surely is a matter which could be set right in Select Committee, and it would not be beyond the scope of this Bill, because when we want the minimum rates to be fixed, it is up to the Select Committee to lay down safeguards that the minimum must not be defeated by resorting to secret rebates. Deferred rebates again is another point which could be very easily dealt with by the Select Committee. Now, Sir, my Honourable friend said you might ultimately ask that the companies might be bought over by the State.

Sir Victor Sassoon (Bombay Millowners' Association: Indian Commerce): He did not say the State.

Mr. K. C. Neogy: My Honourable friend Sir George Simpson represents the Associated Chambers of Commerce. Not very long ago a suggestion was made by no less a body than the Bengal Chamber of Commerce, which he himself represents, which was interpreted by the Railway Board to mean that "the Railway should incur a large expenditure in providing steamers for their own river carriage". That is what I find at page 156 of a Government publication, *The Monograph on Indian Railway Rates*, to which I have already referred. So it would not be very unusual if such a suggestion were made. As a matter of fact, that is the exact suggestion that was made by one of the constituents of my friend Sir James Simpson. My Honourable friend Sir George Rainy said it would be rather difficult.

Mr. President: Order, order. Perhaps the Honourable Member might like to carry this motion over to the next non-official day?

Mr. K. C. Neogy: Just one word more, Sir. I won't take more than a minute or two. My Honourable friend Sir George Rainy said it would be difficult to impose Advisory Committees on a private Company. I do not know why my Honourable friend thinks it would be difficult to impose such a committee. I find that most of the Provincial Governments have accepted this proposal, whatever their views may be with regard to other parts of the Bill.

And now with regard to one observation which was made by my Honourable friend Mr. Chalmers, that there is a committee in Assam to advise in regard to steamer service questions, I find that there is no reference to this fact in the opinion of the Assam Government. On the other hand, the Assam Government themselves say:

"His Excellency in Council however considers that these Advisory Committees might be useful if they take the form of several small local Committees. They should ensure that grievances, where possible, are promptly remedied and they should be useful agencies for explaining to the public the reasons why impossible demands cannot be granted."

It does not seem therefore as if there were advisory committees in Assam, but if there are such Committees, I congratulate Assam.

Mr. T. A. Chalmers: Does the Honourable Member imply that I am wrong?

Mr. K. C. Neogy: I won't say that, but my Honourable friend's information goes much further than the information of the Government of Assam.

Mr. President: Order, order. The question I have to put is:

"That the Bill further to amend the Inland Steam Vessels Act, 1917, be referred to a Select Committee consisting of Mr. Jamnadas M. Mehta, Sir George Rainy, Mr. Sessa Ayyangar, Mr. Gaya Prasad Singh, Mr. Anwar-ul-Azim, Mr. Abdul Matin Chaudhury, Mr. S. N. Haji, Mr. W. S. Lamb, Colonel J. D. Crawford, Rai Bahadur Tarit Bhusan Roy, Mr. Ghazanfar Ali Khan, and the Mover, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be six."

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 13th February, 1929.