

Tuesday, 5th April, 1932

THE
LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT)

VOLUME III, 1932

(14th March to 6th April, 1932)

THIRD SESSION

OF THE

**FOURTH LEGISLATIVE ASSEMBLY,
1932**



CALCUTTA: GOVERNMENT OF INDIA
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Legislative Assembly

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MR. B. SITARAMARAJU, M.L.A.

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LEGISLATIVE ASSEMBLY.

Tuesday, 5th April, 1932.

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

MEMBER SWORN:

Mr. James Richard Blair (Government of India: Nominated Official).

STATEMENT *RE* SOUTH AFRICA.

The Honourable Sir George Rainy (Leader of the House): Sir, the House will remember that on Saturday last I intimated that a statement would be made on behalf of Government to-day regarding South Africa. In the ordinary course that statement would have been made by the Honourable Member in charge of the Department Sir Fazl-i-Husain, but as he is unavoidably detained in another place, I would ask your special permission, Sir, for the statement to be made by Mr. Bajpai on his behalf.

Mr. G. S. Bajpai (Government of India: Nominated Official): In accordance with paragraph 7 of the Cape Town Agreement of 1927, delegates of the Government of the Union of South Africa and Government of India met at Cape Town from January 12th to February 1st to consider the working of the Agreement, and to exchange any modifications that experience might suggest. The meeting took two full and frank discussions in the Conference, which was throughout by a spirit of cordiality and mutual good-will.

2. Both Governments consider that the Cape Town Agreement disposed a powerful influence in fostering friendly relations between them, and that they should continue to co-operate in the common object of looking after their respective interests in regard to Indians resident in the Union.

3. It was recognised that the possibilities of the Union's so-called assisted emigration to India are now practically exhausted, owing to the economic and climatic conditions of India as well as to the fact that 75 per cent. of the Indian population of the Union are now South African born. As a consequence, the possibilities of land-settlement outside India, as already contemplated in paragraph 3 of the Agreement, have been further considered. The Government of India will co-operate with the Government of the Union in exploring the possibilities of a colonisation scheme for settling Indians, both from India and from South Africa, in other countries. In this investigation, which should take place during the

[Mr. G. S. Bajpai.]

course of the present year, a representative of the Indian community in South Africa will, if they so desire, be associated. As soon as the investigation has been completed, the two Governments will consider the results of the inquiry.

4. No other modification of the Agreement is for the present considered necessary.

5. Before passing on to the Transvaal Asiatic Tenure (Amendment) Bill, Honourable Members would, perhaps, like me to comment on the more important points in the settlement which I have just announced.

(1) Recognition by the two Governments of the need of continued co-operation in the common object of harmonising their respective interests in regard to Indians resident in the Union justifies the hope that friendly relations between South Africa and India, which are of such vital importance to the Indian community in the Union, will continue.

(2) It had become increasingly evident for sometime before the Conference met at Cape Town that Indian opinion both in South Africa and in India had become unfavourable to the scheme of assisted emigration to India. This was due to no shortcoming on the part of either Government but primarily to climatic and economic causes, and the fact that 80 per cent. of the Indian population of South Africa were born in the Union. The recognition by the Union Government that the possibilities of this scheme are now practically exhausted should be received with considerable relief by Indian opinion on both sides of the ocean.

(3) The proposal that the possibilities of land-settlement outside India should be examined merely carries out an integral part of the 1927 Agreement. It may be welcomed on two grounds:

- (i) If it results in a satisfactory scheme of land settlement, it may provide an outlet, especially to the younger generation of Indians in South Africa, in a country where they may have greater opportunities both for economic development and for political self-expression.
- (ii) The association of a representative of the South African Indian Congress in the investigation will not only be a valuable safeguard for the inquiry, but constitutes an experiment in collaboration between the Union Government and the Indian community in South Africa which, it is hoped, will be extended to other fields.

(4) The Agreement stands unmodified except as regards the scheme of assisted emigration to India, and the proposed exploration of the possibilities of land settlement elsewhere. This means, to mention only two points out of the last Agreement, that the Government of the Union continue to adhere to the policy of uplifting the permanent section of their Indian population, and that the Government of India will continue to maintain in South Africa an Agent whose presence has admittedly proved most helpful alike to the Indian community in South Africa and to the promotion of friendship between the two countries.

6. I shall now endeavour to deal with the Transvaal Asiatic Tenure (Amendment) Bill copies of which are also before Honourable Members. The Conference decided that it should be considered by a sub-committee

consisting of two representatives of each Delegation. After discussion in the sub-committee Dr. Malan, who was one of Union representatives, agreed to place informally before members of the Select Committee, which had prepared the Bill, the suggestions of the delegates from India. The results of this consultation may be summarised as follows:

(1) Clause 5 of the Bill which embodied the principle of segregation by providing for the earmarking of areas for the occupation or ownership of land by Asiatics has been deleted. Instead, the Gold Law is to be amended to empower the Minister of the Interior, after consultation with the Minister of Mines to withdraw any land from the operation of sections 130 and 131, in so far as they prohibit residence upon or occupation of any land by coloured persons. This power will be exercised, after inquiry into individual cases by an impartial commission presided over by a judge, to validate present illegal occupations and to permit exceptions to be made in future from the occupational restrictions of the Gold Law. It is hoped that liberal use will be made of this new provision of the law so as to prevent the substantial dislocation of Indian business which strict application of the existing restrictions would involve, and to provide Indians in future with reasonable facilities to trade in the mining areas without segregation.

(2) The Bill has also been amended so as to protect fixed property acquired by Asiatic companies up to 1st March, 1930, which are not protected by section 2 of Act 37 of 1919. This will have the effect of saving many Indian properties which, though not acquired in contravention of the letter of the Act of 1919, were acquired contrary to its spirit.

(3) Local bodies, whom clause 10 of the Bill required to refuse certification of fitness to an Asiatic to trade, on the ground that the applicant may not lawfully carry on business on the premises for which the licence is sought, shall have to treat a certificate issued by a competent Government officer to the effect that any land has been withdrawn from the restrictive provisions of sections 130 and 131 of the Gold Law as sufficient proof that a coloured person may lawfully trade on such land. As it is proposed to maintain hereafter a register of all lands in proclaimed areas where Asiatic occupation is permitted, such a provision should prove a valuable safeguard to the Indian community.

7. As against these important concessions, it has to be recognised that the recommendations of the Indian Delegation that areas like Springs and de-proclaimed land, to which the restrictions of clauses 130 and 131 do not at present apply, should not be made subject to them, and that lease for ten years or more should not be treated as fixed property have not been accepted. On the balance, however, the amendments which, subject to ratification by the Union Parliament, have been made in the Bill represent a substantial advance on the original Bill.

8. I must apologise to the House for the length of the statement. I have endeavoured to make it as brief as is compatible with clarity. Government had hoped that it would be possible to make the announcement earlier, but this was found impossible as the results of the Conference have to be published in both countries simultaneously, and the Union Parliament reassembles only today after the Easter recess. Government trust, however, that keeping in view the difficulties inherent in the problem, and after consideration of the statement which has been made today, Honourable Members will feel satisfied with the results achieved.

Mr. B. Das: May I ask a supplementary question

Mr. President: The whole subject will come up for consideration on a Resolution and then the House can deal with it.

STATEMENTS LAID ON THE TABLE.

BIRTH AND DEATH RATES IN AJMER-MERWARA.

Sir Frank Noyce (Secretary: Department of Education, Health and Lands): I lay on the table the information promised in reply to unstarred question No. 212 asked by Khan Bahadur Haji Wajihuddin on the 23rd March, 1932.

Final reply to unstarred question No. 212 by Khan Bahadur Haji Wajihuddin, regarding births and deaths in Ajmer City, asked on the 23rd March, 1932.
(Ad interim reply was given on the 23rd March, 1932.)

(a) (1) The figures quoted by the Honourable Member, which apparently refer to Ajmer Municipality only, are not quite correct. The correct figures are:

	Birth rate per mile.	Death rate per mile.
1912-13	19.58	32.70
1913-14	19.65	33.95

(2) The number of deaths reported exceeded the number of births registered in 1913-14 by 1,238. It is believed, however, that the registration of births in that year was very defective.

(b) No. What Major Lumsdon said was—

“So large an excess of deaths over births is due partly to the bad sanitation of the city and partly to imperfect registration of births”.

(c) A complete drainage scheme involving very large expenditure has been prepared and will be carried out gradually as funds permit. Government intend to do all they can to improve public health conditions in the Municipality as soon as possible.

BAD DRAINAGE OF AJMER CITY.

Sir Frank Noyce: I lay on the table the information promised in reply to unstarred question No. 213 asked by Khan Bahadur Haji Wajihuddin on the 23rd March, 1932.

Final reply to unstarred question No. 213 by Khan Bahadur Haji Wajihuddin, regarding bad drainage of Ajmer City, asked on the 23rd March, 1932.
(Ad interim reply was given on the 23rd March 1932.)

(a) A copy of Lt.-Col. Dff. Mullen's report is laid on the table of the House.

(b) The attention of the Honourable Member is invited to the reply given to part (c) of his question nos 212.

Report referred to in the reply to (a) of the statement laid on the Table in reply to unstarred question No. 213.

Drainage.

As regards drainage, an expert ought to be engaged to draw up a comprehensive scheme for the whole city, and this scheme could be worked out gradually as funds were available. At present, although a lot of money has been spent on it at different times,

the drainage is ludicrously defective. Kaisar Ganj is a hotbed of Typhoid fever in consequence of sullage water stagnating for want of proper drainage. I believe something might be done towards removing sullage and waste water from the higher parts of the city by means of two inch pipes leading from cisterns placed at the higher levels to a reservoir outside the city wall at a low level and from thence taken to the Tram Depot. The pipes are inexpensive, and this plan would do away with a certain amount of cartage within the city, a boon to be appreciated.

DFF. MULLEN, M.D., Surgeon,

Lt.-Col.,

Civil Surgeon, Ajmer.

HIGH DEATH RATE IN AJMER.

Sir Frank Noyce: I lay on the table the information promised in reply to unstarred question No. 218 asked by Khan Bahadur Haji Wajihuddin on the 23rd March, 1932.

Final reply to unstarred question No. 218 by Khan Bahadur Haji Wajihuddin, regarding infant mortality in the Ajmer Municipal area asked on the 23rd March, 1932.

(Ad interim reply was given on the 23rd March, 1932.)

(a) (1) Yes.

(2) No.

(b) The correct figures of birth and death rates in 1930-31 were :

Births 26.7 per mile.

Deaths 33.9 per mile.

(c) Efforts are being made to improve the existing conditions by means of health propaganda, maternity and child welfare work and by improving the sanitation of the town.

MOTOR MAIL CONTRACTS IN BOMBAY, MADRAS AND BENGAL.

Mr. T. Ryan (Director General of Posts and Telegraphs): I lay on the table the information promised in reply to parts (a), (b) and (c) of starred question No. 818 asked by Rao Bahadur B. L. Patil on the 16th March, 1932.

List of contracts for the carriage of mails promised in reply to parts (a), (b) and (c) of the starred question No. 818 asked by Rao Bahadur B. L. Patil on the 16th March, 1932.

Names of Presidencies.	Particulars of contracts.	Names of contractors.	Amounts of monthly subsidy paid.	Remarks.
Bombay	(1) Bombay city mail motor service.	Messrs. Bombay Cycle and motor Agency, Ltd., Bombay.	Rs. 7,000	
	(2) Poona city mail motor service.	Messrs. Panchgani Motor Service, Poona.	1,075	

Names of Presidencies.	Particulars of contracts.	Names of contractors.	Amounts of monthly subsidy paid.	Remarks.
Madras	(1) Madras city mail motor service.	Messrs. The Garage Ltd., Madras.	Rs. 9,000	*The contract has been given to Messrs. The Bangalore motor service for a period of 3 years with effect from 1st April, 1932 on a monthly subsidy of Rs. 1,445.
	(2) Bangalore city mail motor service.	Messrs. Mackenzie & Co., Bangalore.	2,000*	
Bengal	(1) Calcutta mail motor service.	Messrs. The Garage (Calcutta) Ltd.	16,500	
	(2) Dimapur-Imphal mail motor service.	The Manipur State Durbar.	3,000	
	(3) Pandu-Gauhati-Shillong mail motor service.	Messrs. The Commercial Carrying Coy., Ltd., Shillong.	2,083-5-4	

CONTRACT FOR THE CONVEYANCE OF MAILS BETWEEN ERODE AND SATYAMANGALAM.

Mr. T. Ryan: I lay on the table the information promised in reply to starred questions Nos. 515 and 516 asked by Mr. Bhuput Sing on the 29th February, 1932.

Starred question No. 515.

(a) No; the Postmaster-General decided to accept the tender but acceptance was not communicated to the party concerned.

(b) The Superintendent refrained from making the contract pending the result of a reference by him to the Postmaster-General.

(c) No.

(d) Yes, under the orders of the Postmaster-General.

(e) Does not arise in view of replies to (c) and (d) above, but the action of a subordinate officer in suggesting reconsideration of orders issued to him before acting on them is not necessarily out of order.

Starred question No. 516.

(a) Yes, except that the orders alluded to were not communicated to the tenderer and were not exactly 'final' orders.

(b) Yes, unless the invitation to retender be covered by the term "negotiations".

(c) The first order was reconsidered before the execution of any agreement, because the Postmaster-General became aware that another tenderer was prepared to make a revised offer and accordingly fresh tenders were called for to give both parties an equal opportunity in the matter.

(d) It is a fact that the tenderer in question holds the contract for another mail line Erode to Dharapuram. Government have no information regarding the testimonials held by him.

(e) The agreement was made with the present contractor because it resulted in a decided advantage to Government. The action of the Superintendent was approved by the Postmaster-General.

THE RAILWAY HOSPITAL AT NAGPUR.

Mr. J. R. Blair (Government of India: Nominated Official): I lay on the table the information promised in reply to parts (a) and (b) of starred question No. 71 asked by Sir Hari Singh Gour on the 27th January, 1932.

Statement giving the information promised in reply to parts (a) and (b) of starred question No. 71 asked by Sir Hari Singh Gour on the 27th January, 1932, regarding the railway hospital at Nagpur.

(a) Yes.

(b) The Medical officer at present in charge of the Railway hospital at Nagpur is an Indian.

THE ANCIENT MONUMENTS PRESERVATION (AMENDMENT) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

Sir Frank Noyce (Secretary, Department of Education, Health and Lands): Sir, I present the Report of the Select Committee on the Bill to amend the Ancient Monuments Preservation Act, 1904, for certain purposes.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

Sir Lancelot Graham (Secretary, Legislative Department): I beg to move that the Bill further to amend the Code of Civil Procedure, 1908, for a certain purpose, as passed by the Council of State, be taken into consideration. Those Members of the House who have read the Bill will realise that it is a very small matter of procedure which is being dealt with by this legislation. It is an addition to the Code of Civil Procedure for the purpose of enabling Courts in British India to take evidence for foreign tribunals in civil and commercial matters. As pointed out in the Statement of Objects and Reasons, there is no specific provision in the law of India prescribing the procedure to be followed in such matters, and it is desirable that the outlines of the procedure to be followed should be shown in the Code of Civil Procedure, in order to secure a general uniformity in the practice of the various High Courts and for the guidance and information of foreign tribunals. That, Sir, is the whole extent of the Bill. I do not think that it is necessary for me to say anything more at this stage. Sir, I move.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): I do not move my amendment.*

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): We do not oppose this motion.

Mr. President: The question is:

"That the Bill further to amend the Code of Civil Procedure, 1908, for a certain purpose, as passed by the Council of State, be taken into consideration."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

* "That the consideration of the Bill be postponed to the next Simla Session."

Sir Lancelot Graham: I move that the Bill, as passed by the Council of State, be passed.

The motion was adopted.

THE INDIAN PARTNERSHIP BILL.

Sir Lancelot Graham (Secretary, Legislative Department): I move that the amendments made by the Council of State in the Bill to define and amend the law relating to partnership be taken into consideration.

Honourable Members will remember that this Bill was passed through this House in the earlier stages of this session. At that time an amendment somewhat late in the day was moved by my learned friend Diwan Bahadur T. Rangachariar, and in accepting the principle of that amendment, we stated that we should have to re-examine the draft to make sure that it fitted in with the rest of the Bill. On a re-examination of the draft, we decided that it was desirable to make a formal amendment in the amendment passed by this House. That, Sir, is the explanation of the amendment to sub-clause (6) of clause 30 of the Bill. No alteration has been made in the principle laid down by that amendment. Then, another matter on which it was hinted in this House that an amendment was desirable was in connection with some relief to be granted in matters of registration of partnerships. My Honourable friend Mr. Sen suggested it but he had not got an amendment tabulated to our satisfaction. We said that we would examine that proposal and if we approved of it, we would insert an amendment to the effect in the Council of State. That is how the amendment came into the Bill. The third amendment is a purely drafting amendment to clause 11. The words, "Subject to the provisions of this Act" have been added in order to make sure that there is no clash between the different clauses of the Bill. Sir, there having been no amendments of substance made by the Council of State, I do not think it is necessary for me to dilate at length on these formal amendments. I therefore move that these amendments be taken into consideration.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): I do not move my amendment.*

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): I rise to support the motion made by my Honourable friend Sir Lancelot Graham. These amendments have been made as a result of suggestions made in this House when the Partnership Bill was under discussion here. Though the amendments do not fully cover the ground which I suggested during the discussion, they go to a certain extent to give relief to small partnerships, and are useful to people who engage in small partnership business. I think we should all support the Bill; Sir, I support this motion.

Mr. C. C. Biswas (Calcutta: Non-Muhammadan Urban): I was only waiting here for my Honourable friend Mr. Mitra to show in what respects this was controversial measure!

Mr. President: The Honourable Member knows that Mr. Mitra did not move his amendment.

The question is:

"That the amendments made by the Council of State in the Bill to define and amend the law relating to partnership be taken into consideration."

The motion was adopted.

* "That the consideration of the amendments made by the Council of State in the Bill be postponed to the next Simla session."

Mr. President: The question is that the following amendment made by the Council of State in Clause 11 be adopted :

"In sub-clause (1) of clause 11, for the words 'The mutual rights and duties', the words 'Subject to the provisions of this Act, the mutual rights and duties' be substituted."

The motion was adopted.

Mr. President: The question is that the following amendment made by the Council of State in Clause 30 be adopted :

"For sub-clause (6) of clause 30 the following sub-clause be substituted, namely :

'(6) Where any person has been admitted as a minor to the benefits of partnership in a firm, the burden of proving the fact that such person had no knowledge of such admission until a particular date after the expiry of six months of his attaining majority shall lie on the person asserting that fact.'

The motion was adopted.

Mr. President: The question is that the following amendment made by the Council of State in Clause 69 be adopted :

"For sub-clause (4) of clause 69, the following sub-clause be substituted, namely :

'(4) This section shall not apply—

(a) to firms or to partners in firms which have no place of business in British India, or whose places of business in British India are situated in areas to which, by notification under section 55, this Chapter does not apply, or

(b) to any suit or claim of set-off not exceeding one hundred rupees in value which, in the Presidency-towns, is not of a kind specified in section 19 of the Presidency Small Cause Courts Act, 1882, or, outside the Presidency-towns, is not of a kind specified in the Second Schedule to the Provincial Small Cause Courts Act, 1887, or to any proceeding in execution or other proceeding incidental to or arising from any such suit or claim.'

The motion was adopted.

THE INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

Sir Frank Noyce (Secretary, Department of Education, Health and Lands): Sir, I move :

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes, be referred to a Select Committee consisting of Khan Bahadur Haji Wajihuddin, Kunwar Haji Ismail Ali Khan, Sir Abdur Rahim, Maulvi Sayyid Murtuza Saheb Bahadur, Mr. H. P. Mody, Maulvi Muhammad Shafee Daoodi, Sir Hari Singh Gour, Mr. N. M. Dumasia, Mr. G. Morgan, Mr. A. H. Ghuznavi, Mr. M. Maswood Ahmad, Lieutenant Nawab Muhammad Ibrahim 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 five."

I do not think that Honourable Members will desire a long speech from me in support of this motion which, I am happy to think, is an entirely non-controversial one. The Bill like the department from which it emanates may be described as an omnibus Bill. It deals with a variety of subjects, but there is one connecting link between them, and that is the desire to improve the conditions of pilgrims travelling to the Hejaz. I may perhaps be allowed to offer a few brief comments on the three main directions in which it is desired to bring about this improvement. The first is the modification of the existing system by which pilgrims either purchase return tickets or make deposits with Government for the purpose of defraying the cost of the inward passage from Jedda. The existing section 208A. of the Bill already provides that pilgrims must either be in possession of return tickets or must make deposits with Government in order to defray the cost of their passage back from Jedda. This in practice has not proved quite sufficient. It is possible for pilgrims to

[Sir Frank Noyce.]

proceed on pilgrimage on ships other than ordinary pilgrim ships, an experience has shown that many of them do so. It has also shown that the proviso to section 208A under which a pilgrim is also automatically exempted from the obligation to purchase a return ticket or make a deposit if he declares that he does not intend to return to India within three years after the date of declaration is also not sufficient. The declaration system had broken down not so much because pilgrims make a declaration with the deliberate intention of falsifying it, but because they are ignorant of the full facts and conditions of life in the Hejaz, and have in consequence to be repatriated at Government expense within a few months of their departure from India. The number of pilgrims who have had to be repatriated at Government expense has steadily grown during the last five years. It was 188 in 1927, 179 in 1928, 139 in 1929, 387 in 1930 and 319 in 1931. This cost of repatriation during the last two years has amounted to over Rs. 13,000. It is for this reason that we propose to apply the obligation to purchase a return ticket or to make deposits with Government to pilgrims who proceed by other than ordinary pilgrim ships and also to abolish the existing system of declarations. I should perhaps mention that the Haj Inquiry Committee would have liked to abolish the system of return tickets altogether and to insist on deposits in all cases. Government carefully examined this recommendation in consultation with the Standing Haj Committee, but were unable to accept it. They felt that it involved an undesirable interference with the right of pilgrims to purchase return tickets, if they preferred doing so to making deposits with Government. The figures that we have obtained on this point are of interest. In 1930-31, in all, 22 pilgrims, made deposits, whereas 8,091 took return tickets. An even more important consideration which weighed with Government was that if the system of return tickets were to be abolished, the legal liability to provide ships for the return journey of pilgrims would fall on them instead of on the shipping companies. It will be obvious to the House that this might involve Government in considerable difficulties and expense if the shipping companies considered other traffic to be more lucrative than the return traffic from Jeddah, and diverted their steamers to it in the middle or towards the close of the pilgrim season. The return-ticket system is therefore to be retained side by side with the deposit system, but it is proposed to effect certain improvements in the working of that system. Better arrangements are to be made for refunding to pilgrims or to their nominees or legal representatives the value of unused return coupons. The waiting period at Jeddah which is mentioned in section 209A of the main Act will be reduced from 25 to 15 days in the case of return ticket holders who apply for accommodation for the return voyage during the six weeks following on the Haj day. The unclaimed value of unused return coupons of pilgrims is to be recovered by Government from the shipping companies and handed over to the Port Haj Committees for application towards the benefit of pilgrims. These are, I venture to think, marked improvements on the existing system.

The next direction in which it is sought to improve the conditions of pilgrims on the voyages is the obligation which this Bill will place on shipping companies to provide cooked food for the pilgrims. There is no doubt that, at the outset, this alteration in the existing system will not be altogether welcomed by the shipping companies, who may find it difficult to comply with it, and it may not be welcomed by the pilgrims as they may not always be able to get exactly the food they would like. But

the present condition of affairs is undoubtedly unsatisfactory. It is most insanitary to have cooking done all over the ship, and there is also a very considerable danger of fire, I cannot but think that, after a short experience of the new system, the shipping companies and pilgrims alike will wonder why the old one was allowed to continue so long.

The third and perhaps the most important of the three main improvements that the Bill seeks to bring about is the compulsory immunization of pilgrims against cholera and small-pox. This proposal gives effect to a recommendation of the Haj Inquiry Committee which I am glad to inform the House has received the unanimous support of all quarters. It is calculated to safeguard the health of pilgrims, and, what is most important, to minimise the chances of their being required to land at Kamaran the quarantine station in the Red Sea on the outward journey for purposes of disinfection. In this respect we are following the example of the Netherlands East Indies Government, which has adopted this system for a long time past, and also that of the Straits Settlements. It should save the pilgrims a great deal of trouble. If it is adopted there will be no likelihood of their being held up at Kamaran, and this will probably save a day on the voyage. Vaccination against small-pox is I think compulsory already, but that against cholera is only voluntary. It has made rapid strides, but it will be obvious to the House that one un inoculated passenger on a boat involves as great a risk as a very much larger number. Arrangements will be made to immunize pilgrims in their own districts as far as possible, but in the case of pilgrims who are not immunized, inoculation and vaccination will be carried out at the ports of embarkation. These, Sir, are the main provisions of the Bill. There are several others of less importance of which I might perhaps mention the provision in the Bill for medical attendance which will in future be provided free, as an example of the steps Government are taking to improve the conditions of pilgrims. It is unnecessary to explain the various clauses in greater detail. The object of the Bill, as I have said, is to carry out the recommendations of the Haj Inquiry Committee and I am sure it will commend itself to the House.

Maulvi Muhammad Shafee Daoodi (Tirhut Division: Muhammadan): Sir, I am glad that the recommendations of the Haj Inquiry Committee have at last moved the Government of India to bring up before this House a Bill of this nature. I have read the Bill under discussion, but I find there are some provisions which are not in conformity with the recommendations of the Haj Inquiry Committee. I remember that the conclusions at which we arrived were come to after most anxious consideration at that time, and after a great endeavour on our part to bring into line with the views of our esteemed President of the Committee, Mr. Clayton. I have not yet been able to find out why there is that difference on those questions on which the Haj Inquiry Committee have reported; but as the Bill is going to a Select Committee, we shall have an opportunity to discuss the matter again. Sir, I reserve my right of opposing those measures which are against the Haj Inquiry Committee's recommendations.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I do not feel very happy about certain clauses in this Bill, but as it is going to be discussed in the Select Committee, I hope that Committee will modify them. I draw particular attention to clause 15 which provides that if any pilgrim on board a pilgrim ship

[Dr. Ziauddin Ahmad.]

cooks any food and lights a fire, he shall be liable to a fine which may extend to fifty rupees. Sir, we know what these pilgrims are; probably some arrangements must be made for their hookahs and various other matters. I think some of the provisions might prove harsh to these pilgrims. There are some other clauses which call for consideration. I hope the Select Committee will look into all these matters, and that when the Bill comes back, all these objectionable things will be removed. I hope that the Government will adopt a sympathetic attitude towards all the real objections brought forward for discussion in the Select Committee. I congratulate the Government for bringing forward this Bill, which ought to have really been brought up about a year ago. This Bill is in keeping with the recommendations of the Haj Inquiry Committee's Report, and I support it.

Mr. M. Maswood Ahmad (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, at this moment I shall only congratulate the Government on their bringing forward this measure. I do not of course agree with all the provisions in the Bill, but as I am myself a member of the Select Committee, I do not go into them at this moment. Sir, I support this motion.

Maulvi Sayyid Murtuza Saheb Bahadur (South Madras: Muhammadan): Mr. President, I feel bound to congratulate the Member in charge on having made the motion that the Bill should be referred to a Select Committee. In the Bill, Sir, there is one healthy feature which relates to the quarantine at Kamaran, which was causing a great deal of annoyance and hardship to pilgrims, and there was a hue and cry raised against this quarantine. When our Committee went to all the important centres in India and examined all these questions, we gathered from the evidence that the pilgrims were put to many hardships and difficulties in Kamaran. I am glad that our recommendations, so far as the quarantine is concerned, have been approved. But as regards the subject of return tickets, we were informed by the Mover of this motion that the Government could not agree with us. Sir, our Committee consisted of six members presided over by Mr. Clayton, I.C.S. All the seven were unanimous in all the recommendations.

We were holding vehement discussions on important and momentous questions, and we came to unanimous conclusions which found a place in our recommendations. After so long a time, we heard that some of the recommendations of ours, particularly as regards return tickets, have not been accepted by the Government. The difficulty is this, and it was pondered over by all the Members. The evidence, which we are sorry to see not published by the Government for financial difficulty, would have convinced the House that the return ticket system did not find favour with many pilgrims, because many of the pilgrims do not take the same route when they get back to India. Some of them take the land route and some of them do not return at all but settle down either in Mecca or in Medina, and the Shias settle down generally in Karbala or Najaf. So, we were not at all willing to impose any hardship on them. So far as repatriation is concerned, I think the Government could have met that question very easily if they had simply followed the recommendations of the Haj Inquiry Committee. As has

been observed by previous speakers, this is not the final stage of the Bill. When this is referred to the Select Committee, we can go into all these questions, and I hope the Honourable Member in charge, or his Secretary, will give in at least in some of the momentous questions.

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain (Member for Education, Health and Lands): Sir, I am very glad that Honourable Members who have taken part in the debate have been appreciative of the way in which my Department has dealt with the Report of the Haj Inquiry Committee. Before I proceed to deal with a few points that have been raised, may I give a birds-eye view of the history of this legislation and the one included in the two Bills that have been already introduced. The reason for my taking up a few minutes of the time of the House in doing so, is not anything that has been said by Honourable Members on the floor of the House but certain false statements, certain half-truths, certain misrepresentations that have been made in the public Press, attacking not only the supposed inaction of the Government of India but also very seriously reflecting on the efficiency and capacity for work of the Standing Haj Committee, which reflections I, its Chairman, know are altogether undeserved. What are the charges made, the House may ask me, which you seem to be anxious to repudiate? The charges made are something like these: The Government of India and the Department concerned have turned a deaf ear to all the Muslim representations on the subject of the Haj; the Haj Report was made, but the Government of India kept silent for two years and took no steps. But the gentleman who made statements from which the Press commented also professes great interest in the Haj. I will not go into his own history during the last few years, whether in India or outside India, but content myself by showing whether as a matter of fact the Government of India and this House have been or have not been solicitous of the welfare of the Hajis. As early as September 1928, a Resolution was moved in the Legislative Assembly desiring the appointment of a Haj Inquiry Committee. That Resolution was promptly followed by the appointment of a Haj Inquiry Committee in the next session of the Assembly; that is to say, March 1929. A very strong Haj Inquiry Committee was appointed consisting of 8 or 9 Members, most of them from the Assembly, some from the Council of State, and only one from outside. That Committee toured throughout India, and spent one full year; as many as 250 associations and individuals sent in written opinions in answer to their questionnaire, which was very carefully framed. A large number of witnesses were orally examined. They did their duty thoroughly. They submitted a very carefully considered report, embodying as many as 219 recommendations, and most of them, if not all, were unanimous recommendations.

An Honourable Member: All were unanimous recommendations.

The Honourable Mian Sir Fazl-i-Husain: Except for a little bit here and there. The Committee cost the State two lakhs of rupees, to get this work done for the Hajis. They made their Report without any avoidable delay in March 1930. Therefore, to say that the Government of India turns a deaf ear to all representations concerning the Hajis is a bare falsehood. The man who made that statement was himself a witness before this Committee and therefore he could not possibly avoid admitting that Government did something in the matter of helping the Hajis. But he proceeds to say, having appointed that Committee, since then Government have done nothing. That again is untrue because when the Report

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was out in April 1930, Government took several steps, firstly the Report was in English and Government was able to secure the co-operation of a public-spirited Muslim, Maulvi Firoz-ud-Din of Lahore, who translated the whole Report into Urdu at his own expense and published it.

Again Government proceeded to deal with these recommendations straightaway. But the critics outside and some of the Members of this House appear to think that because this legislation has been produced after two years of the making of the Report, therefore it is a long time taken by Government. It should be remembered that in the first place not only had these recommendations to be considered by the department, but Local Governments had also to be consulted, in particular the Government of Bengal and the Government of Bombay. That was not all. We had also to consult certain authorities outside India, in particular in Jeddah. We had to consult the Foreign and Political Department; we had to consult the Commerce Department; and Honourable Members know that when so many interests and so many departments are involved, it is not easy to make rapid progress. However I may mention that soon after the Report was published, my Department took up dealing with it, and a large number of meetings of the Standing Haj Committee were held. The first one was held as early as 5th July, 1930, and during 1931 four meetings were held, one in February, one in March, one in September and one in November; and all these meetings were very well attended. It was in these meetings that Government were able to deal with all the recommendations made by the Haj Inquiry Committee. When Government were able to accept any recommendations straightaway, intimation of that acceptance was given to the Standing Committee. Those we felt doubtful about were discussed in the Standing Haj Committee, and where the Committee was unanimous, there, so far as I recollect, Government invariably accepted their recommendation. It was only in very few cases where the Haj Committee was divided, that in one or two cases Government might have failed to accept the recommendation of the majority. In every case where Government was not able to accept, it was on the advice of the Standing Committee. Therefore it is for the Honourable Members to judge how far this representation that Government have turned a deaf ear is true, if it is not an actual falsehood.

Then it may be urged, how can the public know what you are doing. The Standing Haj Committee meeting is not like a public meeting of which everybody comes to know. That is perfectly true, and Government were not content with dealing with these matters in the Standing Haj Committee, but a large number of communiqués were issued from time to time. The first one was issued as early as February 1931, wherein a reduction of fares for the Haj was announced. This gentleman who professes so much interest in the Hajis has failed to realise that it was the Standing Haj Committee which met the shipowners and persuaded them to reduce the fares, and that reduction was communicated to the public through a communiqué dated the 9th February, 1931. Another communiqué was issued on the 27th October, 1931, telling what action had been taken on the recommendations of the Haj Inquiry Committee's Report up till that day, and that Government was proceeding with the rest of the recommendations. Again, on the 23rd November, 1931 another communiqué was issued, another on the 16th December, 1931, and still another on the 21st January, 1932. For any one to say that Government were taking no interest in these things is nothing short of an absolute

untruth. It has been asked, what has been the fate of these 219 recommendations made by the Committee. Sir, so far as I recollect, nearly 130 have been accepted as they stood, another 30 or 40 with very slight modifications on the recommendation of the Standing Haj Committee, 19 have been rejected, at least 17 or 18 of them with the concurrence of the Standing Haj Committee, and on another 40 or so suitable action has been taken because they were not recommendations that could be either accepted or rejected, but only called for certain steps to be taken. Last of all, but not the least important of all, three Bills have been prepared and have already been introduced. One of them is being sent to the Select Committee, the other two will follow. It is much to be regretted that people come to Members and Secretaries of Government, see them, place their points of view before them; they are told actually what is being done; and knowing all that, they go out and publish statements to the effect that the Government of India turn a deaf ear to everything. I trust not only that this attack on the efficiency of the Committees of this House will be considered unfavourably by this House, but that a practice of this sort is one to be discouraged in the interest both of this House as well as of the Government.

Now, Sir, with reference to the two or three points mentioned by the Honourable Members, I assure them that Government are ready to consider any suggestion they wish to make in the Select Committee. The question of return tickets or deposits was one on which, in the Standing Committee itself, there was a great divergence of opinion. All the arguments that apply to deposits equally apply to return tickets. There was the question of people going to Najaf and settling down in Hejaz, and returning overland. We were assured that as in the case of deposits, so in the case of return tickets, the money for the return passage will be refundable to the person who comes and says after a particular time that he is going to settle down in the Hejaz, or that he is not going back at all and so on. In other words there was no difference between the two except from the shipping point of view. The shippers said they would not have their right to sell return tickets curtailed, and we had to decide whether we could force this down their throats or not. I daresay there may be a way of doing that, but short of Government shouldering the responsibility of running the traffic itself, we felt we could not do anything else. That is why that particular recommendation, to which reference was made and on which, as I said, there was a difference of opinion, Government could not but embody in the Bill the view it has taken. All other points are such that it will be found on further study of these that there is practically no difference of opinion.

My friend Dr. Ziauddin showed some solicitude for the hookah smoker. If he reads the Report of the Haj Inquiry Committee, he will find that the maulanas who have served on that Committee were not unmindful of the inconvenience they might cause, but felt that approach to Western standards by the hookah smoker will not be altogether to the detriment of the best interest of the Hajjis.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadian Rural): Sir, I beg to move that the name of Bhai Parma Nand may be added to the Select Committee.

The Honourable Mian Sir Fazl-i-Husain: I understood that the Leader of the Nationalist Party wishes to add the name of Bhai Parma Nand. The Mover of the Resolution has consulted me and he says he has no objection to Bhai Parma Nand's name being added as well as that of another aspirant to serve on the Select Committee, Haji Chaudhury Muhammad Ismail Khan of Bengal.

Mr. President: The question is:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes be referred to a Select Committee consisting of Khan Bahadur Haji Wajihuddin, Kunwar Haji Ismail Ali Khan, Sir Abdur Rahim, Maulvi Sayid Murtuza Saheb Bahadur, Mr. H. P. Mody, Maulvi Muhammad Shafee Daoodi, Sir Hari Singh Gour, Mr. N. M. Dumasia, Mr. G. Morgan, Mr. A. H. Ghuznavi, Mr. M. Maswood Ahmad, Lieutenant Nawab Muhammad Ibrahim Ali Khan, Haji Chaudhury Muhammad Ismail Khan, Bhai Parma Nand and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

THE TEA DISTRICTS EMIGRANT LABOUR BILL.

The Honourable Sir Joseph Bhore (Member for Industries and Labour):
Sir, I beg to move:

"That the Bill, to amend the law relating to emigrant labourers in the tea districts of Assam, be referred to a Select Committee consisting of Sir Cowasji Jehangir, Mr. K. Ahmed, Mr. C. C. Biswas, Mr. Abdul Matin Chaudhury, Mr. A. G. Clow, Mr. Tin Tüt Mr. H. B. Fox, Mr. N. M. Joshi, Mr. B. N. Misra, Mr. H. P. Mody, Mr. G. Morgan, Mr. T. R. Phookun, Mr. Gaya Prasad Singh, Mr. K. P. Thampan, Mr. Muhammad Yamin Khan, Sir Frank Noyce, Mr. S. G. Jog and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, I now ask the House to accept the principles of this Bill by sending it to a Select Committee. The first principle is the acceptance, as an ideal policy, of the removal of restrictions on and impediments to the free movement of labour. I do not think that anybody in this House will object to that policy which has the endorsement of two Royal Commissions. But it may be that that policy may not be susceptible of complete acceptance here and now without some temporary modification or qualification, and we have therefore provided in the Bill for power to exercise control over the forwarding or the recruitment of labour to Assam or over both, should this become necessary in the interests of the emigrants. Our position is that we would like to see all restraints removed. but realising how easy it is for abuse to creep in, we have provided power to impose control should this be necessary.

The next principle of importance is to secure to the emigrant to Assam the right of repatriation. That is a matter of great importance. It is perfectly true that this will lay a statutory burden upon the employer. But I venture to think that his gain will also be substantial. His labour, feeling that their return to their homes is definitely secured, will be more contented and for that reason more efficient. We are providing for a definite right to repatriation at the end of three years, and we are also providing for the exercise of that right before the expiry of that period in certain definite eventualities.

These, as far as I can see, are the main principles of the Bill. The other provisions of the Bill deal with procedure machinery and other necessary details.

I think I ought to say a few words in regard to my motion for reference to a Select Committee. It has been actuated by a desire to get on as rapidly as possible with labour legislation, subject of course to the necessity for ensuring publicity in regard to our proposals. I ought to explain to the House that the revision of existing labour legislation in regard to Assam has been the subject of discussion with Local Governments so far as it concerns the removal of restrictions and control ever since the year 1926. As a matter of fact in 1928 we actually framed a Bill on this matter and we referred that Bill to Local Governments. But, as the Labour Commission had then been appointed, we considered that it would be advisable to leave the whole question for the consideration and examination of the Labour Commission. The Commission examined this question with great care, recorded much evidence relating to this subject, and I may say that this Bill with certain slight deviations embodies the unanimous recommendations of the Labour Commission.

It only remains for me to say that so far as we are concerned, if the House accepts this motion, we propose that the Select Committee should meet slightly before the next Simla Session begins. In the meantime, we shall be glad by executive order to circulate this Bill for eliciting opinions thereon, so that such criticisms as may be available will be before the Select Committee before it starts upon its labours. In that way, we hope that much time will be spared and that we shall be able to get through this legislation as early as possible and thus leave the stocks free for other legislative measures. Sir, I move.

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I heartily accept the main principles embodied in this Bill, and while doing so I wish to make one or two observations. As far as emigration, repatriation and other kindred things are concerned, this Bill is fairly perfect, but there are one or two very important matters which, according to my view, have been completely neglected. In the first place, the Royal Commission on Labour in Chapter XXI of their Report have suggested a statutory machinery for fixing wages. In subsequent Chapters, they make a special recommendation for a Board of Health and Welfare, maternity benefits and other things. Regular and prompt payment of wages has also to be naturally provided for. All those things have been completely left out in this Bill. Perhaps the Honourable the Mover is taking refuge in the belief that they are matters for Local Governments to deal with, but, Sir, we know how the machinery of Local Governments moves in this country. Unless the Government of India bring pressure to bear upon the Local Governments, legislation on these matters are not at all likely to be undertaken. I therefore request the Government that they should consider earnestly whether it will be possible to include these provisions also in some form or other in this Bill; otherwise, they must press upon the Local Governments the imperative necessity of taking up immediately the necessary legislation on those lines, unless that is done we will be tackling only the fringe of the problem. With these few words, I support the motion to refer the Bill to a Select Committee.

Mr. Abdul Matin Chaudhury (Assam: Muhammadan): Sir, this is a very important measure. It will affect the future happiness and well-being of thousands of workers in Assam tea plantations. It is therefore

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very necessary that the House should realise the true implications of this Bill, that it should have an idea of the dangers and pitfalls to which it exposes emigrants to Assam tea gardens, and that the House should examine very carefully the sufficiency of the measures that are proposed to be taken to safeguard the interests of labour. This Bill is primarily intended to facilitate the flow of labour to Assam tea gardens. It is intended to remove the restrictions that hamper the flow of labour to Assam plantations and to solve the problem of scarcity of labour which the tea gardens are supposed to be suffering from. Now, in a poor country like ours, where unemployment is chronic, it is pertinent to inquire why is it that labourers from distant parts of India do not flock to Assam gardens when there is a great demand for labour there. Why is it that some of the Local Governments find it necessary to prohibit recruitment for Assam tea gardens in their own jurisdiction, and why is it that the tea planters find it necessary to spend as much as Rs. 150 per recruit to get labourers from outside? On no other industry, Sir, in Assam is it necessary to spend money on recruiting organization. The Assam Oil Company at Digboi is able to attract recruits without any recruiting organization; the B. O. C. oil wells in Sylhet and Cachar are worked with local men. Assam sends labourers even to other parts of India. There are about 4,000 labourers from my own district, Sylhet, in Jamshehpur. In Calcutta, Howrah and Kidderpore there are about 10,000 unemployed men from Sylhet waiting for opportunities of employment in sea-going vessels. Why don't all these men go to the tea gardens of Assam and seek employment there? There are about six lakhs of men, ex-tea garden labourers in Assam; why don't they go to tea gardens? The only conclusion to be drawn from all this is that the conditions of life and work and also wages in tea gardens are not such as to tempt anybody to go there and seek service there. In the year 1927 the British Trade Union Congress sent a delegation to India to study the labour conditions here. The delegation consisted of Messrs. Purcell, a Member of Parliament, and Mr. Hallsworth, a prominent Trade Unionist. They made inquiries into the conditions of labourers in Assam tea gardens, and as to what these observers say I shall read out a few lines from their Report:

"The story of the poor labourers in the tea gardens in Assam is about as sordid a one as could possibly be related. The official statement on wages, it will be noticed includes many things, and even then makes a most miserable show in putting down the amount of wages for a month's labour. If the highest figure is taken, including all the items named, the combined labour of husband, wife and child brings this human trinity only one shilling and three pence per day!

We refrain from narrating the many other facts which were garnered, except the significant one that we witnessed a group of men, women and children working away together, while about five yards away was a planter's young assistant proudly hugging a whip. This we regarded as good proof of the "contentment" prevailing among the tea garden population.

Our view is that, despite all that has been written, the tea gardens of Assam are virtually slave plantations, and that in Assam tea the sweat, hunger and despair of a million Indians enter year by year."

This is how these trained observers describe the conditions of labourers in Assam tea gardens, and I am not aware if conditions have improved to any considerable extent since they submitted this Report. If we are going to encourage emigrants to go to the tea gardens where conditions are such as have been described by Messrs. Purcell and Hallsworth, it is not merely

enough if you make provision for safeguarding the interest of the labourers from the time they leave their homes till they arrive at the garden and repatriate them after three years if they want to, but what is by far the most important is that they must be assured of a reasonable standard of life and work during the years of their stay in the gardens. This is what this Bill fails to assure. No doubt the Royal Commission recommended the withdrawal of the powers of the Local Government to prohibit recruitment to Assam, but they recommended many things more; they recommended that comprehensive measures should be taken with regard to conditions of work, wages, welfare of the labourers in the tea gardens, and I maintain that all these recommendations should be taken together as one connected whole and not piecemeal, as has been done in the present case. To enforce only those portions of the recommendations which facilitate recruitment to tea gardens, and to ignore most of the recommendations which go to ameliorate the conditions of the labourers is most unfair. Sir, in the case of emigrants to Ceylon and Malaya, the Government of India insisted on certain regulations being laid down regarding their wages, housing conditions, sanitary and medical facilities and so forth before they agreed to send out recruits. There is no reason why the Government of India should not equally insist on laying down certain regulations on similar lines in respect of emigrants to the Assam tea gardens. The Labour Commission have themselves pointed out that the position in Assam of an emigrant from Chota Nagpur is not different from that of a Telugu emigrant to Ceylon. They even go further and maintain that the contact between the recruiting district and the district of employment is closer in the case of Ceylon than in the case of Assam. Therefore, Sir, the need for assuring a reasonable standard of life to these emigrants when they are removed far away from their own native place is all the greater in the case of Assam immigrants than in the case of emigrants to Ceylon and Malaya.

I shall tell the House what are the conditions that I consider essential and should be incorporated in this Bill before the Government can encourage emigration to Assam tea gardens. The first essential condition, I think, is that the emigrants in tea gardens and the general public should have opportunities of coming into closer contact with each other than is at present the case, and that the general public should be given the right of access to the tea gardens. When Messrs. Purcell and Hallsworth described the tea gardens as slave plantations, I am prepared to admit that they were little rhetorical, but they were not very wide off the mark. In tea gardens the labourers live in lines to which the public has no right of access. The public have as little right to go to these gardens without the Managers' permission as they have the right to go to a detention camp for detenus without superintendents' permission. The garden Manager rules there as the monarch of all he surveys. There are about 900 tea gardens in Assam, but there is not one single labour organisation to protect the interests of the labourers. The labourers themselves are illiterate and the public are shut out from the gardens. All over India the trade union movement is progressing, but in Assam plantations it is non-existent. It is impossible to start a labour union as the public have no right of access to the gardens. The trade union being non-existent, the labourers remain ignorant even of the beneficial measures that the Government pass for their protection. And being ignorant of their rights, they cannot assert or claim them and are thus absolutely at the mercy of the planters. The Commission recommended that steps should be taken

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to secure closer contact between the tea garden labourer and the public outside. In the opinion of the Commission, it was objectionable in principle that a large stretch of land where so many thousands of emigrants live should be closed to any one who is interested in doing welfare work there. In the Assam Legislative Council they passed a resolution asking the Government to give the public a right of access to the gardens. Before the Government help the tea gardens to secure recruits they should make sure that the tea garden has ceased to be an isolation camp and that the public have a right of access there.

Next as regards wages. If the labourer is assured of a reasonable wage, no further impetus to induce the labourer to go to the tea gardens will be required. But with regard to wages the planters there are moving in a vicious circle. They keep their wages low and therefore they are confronted with a scarcity of labour. Because they are confronted with a scarcity of labour, they spend huge sums of money to secure recruits from outside, and because they spend large sums of money on securing recruits from outside, they are forced to keep down their wage bill. In the year 1929, this industry spent over a crore of rupees in securing recruits. Had they spent that money on the wages of the labourers, the wages could have been increased by 25 per cent. In a very valuable memorandum that Mr. F. C. King, I. C. S., Chairman of the Assam Labour Board, submitted to the Government of India, he clearly explained the interdependence between wages and recruitment, and I should like to read to you a portion from that memorandum:

"I believe that not only does the payment of higher recruiting commissions not tend to establish a voluntary flow of labour to an industry but it actually militates against it. Till wages find their true level, there will not be a free flow of labour to the tea industry. Once this level is reached, the scarcity of labour should automatically disappear and with it would go the competition amongst employers to secure labour and the necessity of paying recruiting commissions. In the meantime, employers should realise that the recruiting commission system cannot solve the problem of labour scarcity, that it does not save them anything, and that it deprives their labourers of benefits they would secure under the free play of the law of supply and demand. Temporary difficulties may present themselves in cutting adrift from a system which has been in vogue for so many years, but if the industry is solidly combined these difficulties should easily be overcome."

To solve this problem the Labour Commission recommended the establishment of a statutory wage fixing machinery to which my Honourable friend Mr. Thampan has referred, and I consider that the establishment of such a machinery should have preceded introduction of legislation in this House.

As regards welfare conditions, the Commission made many detailed recommendations with regard to that; I am not going to discuss them at present. But there is one recommendation which I want to emphasise and which I think should have been enforced before the passing of this legislation,—the recommendation to which my Honourable friend Mr. Thampan has also referred, namely, the establishment of a statutory Board of Health and Welfare. The functions of these boards will be to lay down regulations with regard to conservancy, drainage, sanitation and other welfare activities. I should like to remind the House that at the instance of the Government of India the Federated States of Malaya incorporated in their "Labour Code" similar provisions in the interests of

Indian emigrants. I shall illustrate my point by reading a few sections from the Labour Code of Malaya. Under section 75:

"Every female labourer shall be entitled to abstain from work during terms of one month each before and after confinement and, in respect of such terms, hereinafter jointly referred to as 'benefit period' to receive from her employer maternity allowance to be calculated as provided in sub-section (ii) hereunder."

Section 76 runs as follows:

"The Controller may at any time by order in writing require any employer on a place of employment where ten or more children of any one race between the ages of seven and fourteen years, being dependants of labourers on such place of employment, reside, to construct within a reasonable time to be stated in such order and thereafter to maintain at his own expense a school for such children with such school teacher or school teachers as shall seem sufficient to the Controller, but not in excess of a reasonable number."

Section 169 has the following:

"The supply of water available for each labourer for drinking, cooking or bathing purposes shall not be less than such number of gallons a day as the Controller shall by order either generally or for any particular estate direct."

Section 176 says:

"The Controller may at any time by order in writing require any employer to construct within a reasonable time to be stated in such order and thereafter to maintain at his own expense a hospital on or in the immediate neighbourhood of any estate upon which labourers are employed by him with accommodation for such number of patients as may be stated in such order, or if there is already a hospital maintained by such employer to enlarge or add to such hospital, so as to provide accommodation for a further number of patients as stated in the order; and may further require him to employ a registered medical practitioner as defined by 'The Medical Registration Enactment, 1907', to reside at and have charge of such hospital or any hospital maintained by such employer, and to provide such medical practitioner with fit and proper house accommodation to the satisfaction of the Health Officer."

In Ceylon also the interests of Indian emigrants are similarly protected. Section 32 of the Education Ordinance No. 1 of 1920, provides:

"It shall be the duty of the superintendent of every estate to provide for the vernacular education of the children of the labourers employed on the estate between the ages of six and ten, to appoint competent teachers, and to set apart and keep in repair a suitable school room."

In the Medical Wants Ordinance, No. 9 of 1912, section 12 says:

"It shall be the duty of every superintendent—

- (a) to maintain the lines of his estate and their vicinity in a fair and sanitary condition;
- (b) to inform himself of all cases of sickness on his estate, and to take such steps as he may deem best for the immediate relief of the sick;
- (c) to send any labourer to hospital when so required by a medical officer;
- (d) to send for the district medical officer in any case of serious illness or accident;
- (e) to inform the district medical officer within forty-eight hours of every birth and death upon the estate;
- (f) to supply at the cost of the estate every female labourer resident upon the estate, and giving birth thereon to a child, with sufficient food and lodging for one month after the birth of such child, and to take care that the female labourer be not required to work on the estate for one month, unless the district medical officer shall report sooner that she is fit to work;
- (g) to see that all children under the age of one year resident upon the estate receive proper care and nourishment and to comply with all directions given by a medical officer under section 7(c)."

All this that I have read is merely illustrative. I want that in this Bill identical provisions should be inserted to safeguard the interests of

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the emigrants to Assam. This Bill, I maintain, is an incomplete Bill. It safeguards the interests of the labourers to a very partial extent and if the Government are really desirous of serving the interests of the labourers, they should amend the Bill in such a way as to include all the provisions about the welfare of the labourers. I do not want to enter into a detailed discussion of the provisions of the Bill, as in the Select Committee I shall have ample opportunity of doing so, but there are two or three points to which I want to direct attention. There is the question of repatriation. I consider that the conditions, under which labourers are to be repatriated before the expiry of three years, require widening. The circumstances that are enumerated in the Bill do not exhaust all the contingencies that may arise, and therefore to provide for unforeseen contingencies, the Commission recommended that "for other sufficient reasons" the labourers may be repatriated earlier, but those words "other sufficient reasons" have been dropped out in the Bill. I do not see why Government should depart from the recommendation of the Commission on this important matter. Then as regards the power of the Controlling Officer, the Commission suggested the appointment of an officer armed with power for the protection of the interests of the labourers, but this Bill gives him power only to inspect gardens and to inspect the records. What is this good for if he cannot enforce his decision which he considers to be in the interest of the labourers? This is what the Commission intended:

"What is wanted is an effective authority working mainly in Assam and definitely charged with responsibility for the emigrant during his journey and after his arrival and entrusted with adequate powers to protect his interests."

The powers that have been given in this Bill to the Controller are neither effective nor adequate. I think, Sir, that the Controller should be vested with powers similar to those vested in the Controller of Emigrants in Malaya and Ceylon. There is one thing more that I want to mention, and then I have finished. I consider that the Controller and the Deputy Controller must be Indians. I mean no reflection on European officers, but the very nature of the duties in which they will be engaged requires that these officers should inspire confidence in the labourers who are ignorant and illiterate. They will be suspicious of Europeans, however well intentioned they may be, and I hope that, when making the appointments, this aspect of the question will be borne in mind.

Mr. H. B. Fox (Assam: European): From some of the remarks of the last speaker, I think Honourable Members who know little of Assam and of the tea industry might perhaps fall into the error of thinking that the chief object of this Bill is to confer benefits on a favoured industry. Such, Sir, is far from being the case. There is very little sugar for the tea planters, either British or Indian, in this Bill, though the tea industry is every bit as worthy of the sympathy and the help of Honourable Members of this House as that of any other industry in India. In the dim distant past, labourers in Assam were under penal contracts, and naturally the recruitment and employment of such labour was regulated by statute. In those bygone days Assam was remote, inaccessible and unhealthy, labour was difficult to get and without the indenture system it would have been difficult to keep. the more so as the Government of Assam had vast tracts of virgin land lying undeveloped to which they did their best to attract settlers. Honourable Members will be interested to hear that there are

600,000 ex-tea garden coolies settled on 500 square miles of land which they hold direct from the Government of Assam, and these settlers were all imported at the expense of the tea industry. That, Sir, might probably be one of the reasons why we did not achieve a flow backwards and forwards between Assam and the recruiting districts. Once labourers get to Assam and go on to Government land, they are lost to the tea industry. The difficulty of obtaining labour in those days was responsible for the creation of a class of professional recruiters who reaped rich harvests at the expense both of the tea industry and the emigrant. The situation inevitably gave rise to all sorts of recruiting malpractices and as a result Assam acquired a bad name, first as a remote and unknown place, a foreign land like Fiji or Malaya. My Honourable friend Mr. Abdul Matin Chaudhury still wants to treat Assam as a foreign country like Malaya. Secondly it acquired a reputation as a labour market, which had no scruples, either legal or humanitarian in the matter of recruiting; but those days are past and gone and it is only the lingering memory of these stigmas that is the cause of the Bill which is before the House today. I maintain, and I have the support of the Royal Commission in maintaining that apart from the vague fears of the recrudescence of the old recruiting abuses, there is no justification whatever for the perpetuation of a system whereby one single industry in one province is legally hampered in the engagement of its labour force, one single industry in the whole of India and when I inform this House that the indenture system was abolished in 1915, that every other form of penal contract has been wiped off the Statute-book, it will be obvious that the conditions in which the old recruiting malefactor enjoyed both prosperity and immunity have passed away, for it is the mobility of labour which renders the professional recruiter powerless for mischief. This Bill, Sir, grants to the emigrants statutory rights of repatriation. The tea industry has no objection whatever to this, for in this matter the Bill merely crystallises into a definite system what has for years been a constantly growing practice. By these rights the interests of the emigrant in the matter of their emigration are so fully safeguarded that there remains no justification whatever for the imposition of restrictions on recruiting. What, Sir, have the Royal Commission stated? On page 63 they have stated:

“We recommend that the powers to prohibit recruitment should be withdrawn immediately, and that in future no barriers should be set up to prevent the normal play of social and economic forces in attracting labour from one part of India to another.”

That Commission has definitely stated that they are satisfied that emigration to Assam to work on the tea plantations deserves encouragement in the interests of the labourer, and on page 368 the Commission states:

“We are in entire accord with the view that the danger of serious abuses afford the only justification for the continuance of control.”

The Statement of Objects and Reasons attached to the Bill informs us that the first object of the Bill is, while making it possible to exercise such control as may be justified and required by the interests of the emigrant, to ensure that no restrictions are imposed which are not so justified. The industry, Sir, has no fear of these threatened restrictions, so long as the criterion of their introduction is the interests of the emigrant and not the interests of rival employers. (Hear, hear.) Let the Bill adequately ensure that, as it is intended by the Government of India to do, and all the apprehensions on the part of the industry on chapter IV will be allayed. As a matter of fact, I maintain that an unanswerable case could be made out for the total omission of chapter IV from the Bill, inasmuch as the

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interests of emigrants are impregably protected against any recrudescence of grave abuses. It was clearly contemplated by the Royal Commission on Labour that there should be a marked difference between the introduction of control over forwarding and the imposition of restrictions on recruiting. The former was to be the normal state of affairs; and unless and until it is considered desirable to do without such control, the restriction on recruiting was in no case to be normal or automatic or precautionary; it was only to be resorted to if a situation developed that made such restrictions unavoidable. We find in the Bill, however, that the manner of introducing a regime of forwarding control and a regime of restricted recruiting is precisely the same in each case, with no safeguard whatever that there should be cause shown before the latter step is taken. I claim, Sir, that it is not only reasonable but essential to introduce into this Bill some specification of the grounds that alone can justify a notification under section 26(1) and to prescribe as essential the previous sanction of the Governor General in Council to any such notification. If such safeguards are not given, the interests of the emigrants themselves may be gravely prejudiced and the tea industry will have no alternative but to regard this Bill as a threat of an indefinite perpetuation of a system of unjust and unmerited restriction for which there is no parallel in India. (Hear, hear.)

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, the Honourable gentleman who preceded me concluded with the remark that in certain contingencies this Bill would be characterized as a "threat" to the tea planters. When such apprehensions are expressed in certain circumstances from the European Benches, it becomes more and more clear to Benches on this side of the House that we were pretty right in making this a party question and seeing that it was referred to a Select Committee. Sir, without much hesitation we decided to extend our support to the Honourable Sir Joseph Bhore for the simple reason that he is only trying to give effect to the recommendations of the Labour Commission. It is hardly necessary for me to make a lengthy speech on the matter, but the consideration in this particular affair should be entirely that of the labouring classes,—not so much that of the employers as that of the employed—and, Sir, I suppose, and I hope that that important consideration will be prevailing when the subject is considered in Select Committee. Sir, at the same time I agree with the Honourable gentleman who preceded me in saying that everything should be done to make matters attractive to labour in one part of India by introducing circumstances and offering facilities to enable them to move to another part of India. Sir, the statutory right to repatriation, as pointed out by the preceding speaker, has already been in practice. Therefore, Sir, my Honourable friend has got no serious objections to putting it on the Statute-book. His apprehensions were only in regard to the restrictions in chapter IV, and these restrictions are a matter for examination in the Select Committee and therefore I take it he does not object to the reference to a Select Committee. I hope in this matter every attempt will be made in Select Committee to reconcile antagonisms with a view to making the Bill satisfactory for its easy passage, when it emerges from the Select Committee and comes before this House.

Mr. N. M. Joshi (Nominated Non-Official): Sir, I agree with my Honourable friend Mr. Abdul Matin Chaudhury, that the present Bill is an incomplete one, as giving effect to the recommendations of the Royal

Commission on Labour. I also agree with him that there is some risk in passing a measure of this kind implementing the recommendations of the Royal Commission sectionally, inasmuch as we may pass this Bill here to-day and we may not be able to persuade the Assam Government to pass legislation on the other recommendations within a short time after these recommendations are given effect to. But Mr. President, I feel that although there is some risk in this procedure, considering the constitutional position and considering all other circumstances, it is better to take this risk instead of waiting for the time when there will be simultaneous legislation on all the recommendations of the Royal Commission on Indian labour. Sir, this question of the labour conditions of plantations has a long history, and all that history is not a very pleasant one. I do not understand the complaint of my Honourable friend, Mr. Fox, that this is the one industry which has hampering restrictions placed on it. He forgets that if this is the one industry which has hampering restrictions placed on it, these hampering restrictions had a justification. The original restrictions were not really in the interests of the labour, but were in the interests of the employers themselves. The history is that the planters found it difficult to get labour. They spent a large amount of money in securing labour and then approached the Government and asked that the labourer should not be allowed to go back to his district from his work and thus restrictions were first placed upon the liberty of the labourer himself. Therefore, I feel he was not justified in complaining that his industry is the only industry on which hampering restrictions have been placed. Hampering restrictions to recruitment have been now placed simply because the industrialists wanted to put hampering restrictions upon the liberty of the labourer himself. Restrictions were first placed upon the labourer and then restrictions were placed upon the employers in the matter of recruitment and other things. When labourers were not allowed to go back, naturally Assam got a bad name and they found it difficult to secure recruits. In spite of the difficulties, they went on recklessly recruiting through their contractors, with the result that certain evils crept in, and then, in order to diminish these evils, the Government of India legislated by putting certain restrictions upon recruitment. He cannot certainly complain about these restrictions placed upon recruitment, for one thing because these restrictions were necessary on account of the restrictions placed upon the labourer himself.

I am not one of those people who consider that plantations are an evil altogether. The plantations have provided employment and provided an industry. At the same time, it cannot be forgotten and cannot be denied that the conditions of plantations are not what they should be. The Honourable Member from Assam said that on account of the plantations 500,000 people have been settled on land, independent of the plantations. It is a fact but should he not also consider the fact that, even after 50 years' time, the industry should not have been able to settle sufficient people on the land in Assam in order that they should get labourers locally. An industry that has to recruit labour from a long distance, even after 50 years, need not boast of the advantages which that industry supplies to labour. The very fact that they have still to recruit labour from long distances after 50 years shows that the conditions there are not what they should be. Moreover, as my Honourable friend, Mr. Abdul Matin Chaudhury, pointed out, if other industries in Assam get their labourers without special recruitment, why should not the tea plantations

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get their labour locally. I do not suggest that the position of the tea industry and of other small industries is the same. There is an essential difference between the small industries that exist in Assam and the tea industry. It is quite possible that other industries mentioned by Mr. Abdul Matin Chaudhury perhaps get part of their labour from the tea plantations themselves, but they get their labour from the tea plantations because they pay much more than the tea planters do. In the other industries, the wages generally are about one rupee a day, whereas on plantations the average wage per month is about Rs. 10 to Rs. 15. That is the great difference between wages paid in tea plantations and the wages paid in the other industries in Assam.

I am one of those people who feel that the principle of the recommendations of the Royal Commission as well as the principle of this Bill is very sound. The Honourable the Mover of this Bill stated that the first principle was that restrictions on recruitment should be removed. I feel, however, that the first principle of the Bill is that the labourer should be free to go anywhere he likes in search of employment. This is a very sound principle. In India in agriculture, the wages are very low and on account of the low wages, the standard of living of the people is low. If this standard of living is to be raised by the raising of wages, the labourers must be free to go wherever they can get better wages. Moreover I agree with my Honourable friend Mr. Fox that the labour must be mobile. People must be able to go wherever they can so that the wages will tend to rise where they are low and on the whole the wages in the whole country will tend to equalise. Then there are other parts of the country in India where in agriculture the labourers are bond-slaves even now. In Madras, there is a system which is called *kambari* or *vettki* where the labourer is a serf or a bond-slave to the *sahukar* and the landlord. In Bihar, there is a system called the *kamiauti* system by which the labourer, on account of the advances made to him, is held in bondage by the *sahukar* or the landlord. So long as these conditions exist in some parts of the country in agriculture, we must see that the labourer has some way to escape from these conditions. Moreover I feel myself that travelling is a good thing even for labour. We all know that travelling broadens our point of view, it sharpens our intellect to some extent. On the whole travelling does tend to equip men better for the struggle in life. I therefore feel that the labourer should be left free to go wherever he likes. I agree that in our country the working classes to-day, on account of the ignorance, and on account of their poverty, must be protected. There is nobody here who will deny the fact that although the labourer must be free to go wherever he likes, it is the duty of Government to protect him wherever he goes either by legislation or by other methods. The principle that labour deserve special protection is accepted all over the world. Therefore the second principle of the Bill is that labourer should be protected after being given freedom to go wherever he likes. He should be protected on the way to Assam, and be protected in Assam itself where he is working. This is the second principle of the Bill. This is also in accordance with the recommendations of the Royal Commission on Labour. The Bill provides certain measures for the protection of the labourer during the stages of his journey from recruiting districts to Assam. The Bill provides for registration and establishment of depots where the labourer should be provided with food, rest and shelter. It also provides for depots on the

way and inspection of these depots. These measures are what they should be.

The Commission has made certain recommendations for the protection of the labourer on the plantations. First the Commission recommends that the labourer's liberties should be secured and the labourer should have every facility to return home. Now, as regards facility to return home, the Bill provides for the right of repatriation. I agree with my Honourable friend Mr. Abdul Matin Chaudhury that the right of repatriation provided for in the Bill is somewhat meagre and it should be extended. I myself hold that it is in the interests of the plantations themselves that they should provide a very generous right of repatriation to the labourer, so that he may feel that he is really free and if the conditions are not to his satisfaction he can return home. If once a confidence is produced in the recruiting districts that it is the easiest thing for the labourer who is dissatisfied on plantations to return home, you will make your task of recruitment very easy. I would therefore suggest to the planters to give

1 P.M. a sort of return ticket to every labourer in Assam so that whenever he thinks of returning home he may do so. I am sure every labourer will not think of returning home simply because he has a return ticket, because when he returns home he may not have sufficient to eat. If the conditions in Assam are quite good, although a return ticket may be in his pocket, the labourer is not going to return home. But the point is that if the labourer feels that he has every facility to return home, there will be a confidence in the recruiting district that after all the conditions in Assam may not be so dark, and even if there is some doubt, the labourer will take some risk and go to Assam to see what the conditions are. If the conditions are not good, he will return. I therefore feel that this right of repatriation should be made as generous as it can be made. I agree with my Honourable friend Mr. Abdul Matin Chaudhury that the Bill should provide for general power being given to the Controller to repatriate a labourer for any sufficient reason. The planters I am sure will have sufficient confidence in an officer appointed by the Government of India that even though the power given to him may be very wide, he is not likely to misuse that power.

Then I feel that certain provisions of the Bill provide for right of repatriation in one year. I would suggest to the planters that they should themselves agree that this right also may be extended not to a period of one year but whenever a labourer wants to go back. Then, Sir, there is a small point which I should like to mention, and that is that a labourer gets a right of repatriation if the employer is convicted of assault. I myself feel that it should not be necessary for a labourer to go to the court and get his employer convicted of assault. The power, so far as the right of repatriation goes in the matter of assault, should be left to the Controller himself. A labourer should have the right to make a complaint to the Controller if his employer has committed an assault; and if the Controller is satisfied that the employer has done it, he should have the power to repatriate the labourer.

Then, Sir, the second proposal I would make for improving conditions in Assam is that the liberty of the labourer on the plantation should be further secured. The Royal Commission on Labour agrees that in spite of the disappearance of the legislation providing for criminal punishment

[Mr. N. M. Joshi.]

for breach of contract of service, the labourer is not entirely free. I shall just read a few lines from the Report of the Royal Commission on Labour on this point:

“The workers, for the most part, live in lines to which the public have no right of access. Access is not ordinarily withheld in practice, but, whenever the manager considers it necessary, a watch is maintained on visitors, and there are almost always *chaukidars*, part of whose duty is to observe movements to and from the lines. It is contended by planters that no amount of vigilance can keep a labourer who is determined to leave; and *chaukidars* are probably employed more to prevent other employers from enticing labourers than to prevent the labourers themselves from leaving. At the same time, we had evidence that workers who wanted to leave even a good garden without permission found it advisable to do so by night. In speaking of a labourer who goes without permission the term universally used is “abscond”; and this term reflects accurately the position in which the labourer on some gardens finds himself when he wishes to seek employment elsewhere.”

The fact is that even today the labourer is not entirely free. I therefore feel that the Government should take every measure to give a feeling of freedom to the labourer. The recommendation of the Royal Commission is that the houses of the labourers should be approached by public roads and there should be public roads even within the lines where the houses are built. My Honourable friend Mr. Fox says it will introduce disease. Disease is not prevented from coming simply if you call a road a private road and it will come in if you call it a public road. I feel, Sir, that the Government should take steps immediately to see that all roads leading through the plantations to the houses in which the labourers live should be made public. My own view is that the Government should declare these roads to be public even without giving any compensation. The planters did not pay very huge prices for the lands which they got from Government; they got the lands very cheap, and they have made profits during the last 50 years. And there is no harm at all if Government declares all the private roads to be public. Then the workers' liberty in plantations is restrained and reduced by the action of the planters themselves. The planters have made certain agreements amongst themselves; they have made agreements amongst themselves about wages so that the wages on one plantation should not be increased; they have made agreements amongst themselves not to take . . .

Mr. H. B. Fox: I do not think that is the case.

Mr. President: Honourable Members proposed to be appointed to the Select Committee are giving expression to their views at great length.

Mr. N. M. Joshi: It is quite true that I am one of the Members of the Select Committee, and I am hoping to be able to attend the meeting of the Select Committee. But I am anxious, Sir, that those Members of this House who are not members of the Select Committee will study the Bill in the vacation which they will get and I want to place a few points before them for their benefit.

Then, Sir, the planters have an agreement amongst themselves not to employ each other's labour. This again restricts the liberty of the labourer. It is quite true that the planters may say that they have every right to do so. They may have every right to do so but at the same time the fact remains that the labourers are not an organised body and they

are ignorant and illiterate; and if the stronger party is allowed to make such agreements as will restrain the liberty of the workers who are weak, I suggest that Government will be justified in declaring all these agreements to be null and void. Sir, it is in this way that the Government of India can secure the liberty and freedom of the labourers on plantations.

Then, Sir, the Royal Commission on Labour has made certain recommendations for improving conditions on plantations. They have made recommendations as regards establishing machinery for fixing a minimum wage; they have made recommendations as regards establishing boards of health and as regards education, and certain other recommendations for prohibiting the employment of children before a certain age. I feel that all these proposals should be given effect to without loss of time, so that the real principle of the Royal Commission's recommendations, namely, that the labourer should be made free to go anywhere he likes but should be protected in the province where he goes for his work, will be given effect to.

There is only one more point which I would mention before sitting down; and that point is this; that whatever we may do here in the Central Legislature, a great deal will have to be done for the labourers on plantations in Assam and in the Assam Legislature. I hope that the Government of India will do everything in their power to see that the labour on Assam plantations will be fully represented in the local Legislatures. We must realise that labourers in Assam are not educated and are not able to put forward their own case before the Franchise Committee and before the Government. But I hope that the Government as the trustee of these illiterate and ignorant masses will take every step to see that the labourers in Assam will get adequate representation. I feel, Mr. President, that if they do not get sufficient representation in the Assam Legislature, whatever we may do in the Central Legislature here, the labourer in Assam will not be adequately protected. Assam is a province where not only in old times there was planters' *raj* but I feel that in Assam the planters' *raj* may continue even under the new constitution. I therefore hope that the Government will do everything in their power—they should approach the Franchise Committee and they should approach the Assam Government to see that adequate representation is given to the labourers on plantations. There is no section in Assam which is free from the influence of the planters. The Government are dominated by the planters; the officers are dominated by the planters; the legislators are to a large extent dominated by the planters; and if the present state of the labourer being unrepresented in the Legislature continues, there will be no protection for the labourers in Assam at all. I hope that this defect will be remedied.

The Assembly then adjourned for Lunch till Twenty-Five Minutes Past Two of the Clock.

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

Mr. B. Sitaramaraju (Genjam *cum* Vizagapatam: Non-Muhammadan Rural): Sir, after hearing the Honourable Member from Assam, Mr. Fox, one would think that Assam is verily a land of paradise for Indian

[Mr. B. Sitaramaraju.]

coolies. The Honourable gentleman said that nowhere except in Assam were there such restrictions imposed on the recruitment of labour, but may I ask him whether there is any part in India where the same conditions which are obtaining in Assam prevail. He says that this Bill is intended for the benefit of emigrants. I hope it may be, and I wish it were. If it were in the interest of the emigrants themselves, then I would ask why of all the recommendations of the Labour Commission this particular recommendation, which is the least beneficial to the emigrants, has been taken up when other matters of a more weighty character have remained untouched. In this question two parties are involved; one the emigrants and the other are the employers. We have had the benefit of hearing the employers' point of view about the merits of this Bill, but unfortunately we have not had the privilege of hearing the emigrants' point of view in this House, because labour is not directly represented here, although there is my friend Mr. Joshi who, if I may be permitted to say so, is only a labourite by adoption (Laughter), and in the absence of labourers themselves it is very difficult for us to say how their interests are safeguarded, and it behoves us all that we should treat this measure as a trust and administer it as a trust for the sole benefit of those poor labourers. The principle on which this Bill is based is stated to be this, that there should be a removal of the restriction on the free flow of labour in the country. On the face of it, there can be no possible question that the principle appears to be sound. But I would like to ask what was the nature of those restrictions and who were the authorities who have imposed those restrictions and who are the people affected by those restrictions. If we look a little more deeply into the matter, we find that the restriction on the free movement of labour is imposed not so much on the labour itself as on the employers' powers of recruitment. Here the employers by various methods have been recruiting people, and the way in which they have been discharging those duties has become a by word of reproach and in some respects a scandal. Under those circumstances, certain restrictions were imposed by certain Provincial Governments to prevent not recruitment in all cases but certain methods employed in recruitment, and in certain other cases to regulate recruitment under certain conditions. Therefore, it would seem that the restrictions are meant to act *against the free exercise of the employers' right of recruiting people from various parts of India.* Therefore, I say there is no restriction on the labour itself to go and seek employment in Assam. The restriction is entirely a restriction on recruitment, or rather on the methods of recruitment. Such being the case, one would like to know what safeguards there are, so that these people, who have been notoriously illiterate, who have been helpless and who have been tempted by all sorts of promises by the agents of these employers to forsake their homes and go to distant lands never to return any more, may not be defrauded. Now, the Bill aims at removing that protection which has been accorded up to now to the labourers. In return for that, I must in fairness admit that the Government of India have not altogether neglected the case of the labourers. They say that they are going to impose in substitution for that protection certain rules so as to give them free choice and a right of repatriation. That is the second principle of the Bill.

Sir, I come from a place which is considered to be a fair recruiting ground for these labourers to Assam. The Honourable the Mover of this Bill has also some knowledge of those districts from which this labour is recruited. Sir, I have a little knowledge of how recruitment by the agents of the tea planters is made in my part of the country. Our country is poor, Sir, and particularly those districts which I have the honour to represent are very poor. The land is very much crowded and is not fruitful when compared to other places like those in the Gangetic valley or in the Delta districts. Therefore, it is a great inducement for the labourers to leave the district. If any one goes and offers them substantial amounts as wages and also employment, they will immediately follow them, because, as I said, land is overcrowded and is not able to support them at home. The agents of these tea planters go to these villages and give these poor people a little cash to start with, a few rupees which to the agent is not much but which to the poor labourer is very tempting; then he is promised all sorts of things, and among others I may mention, particularly when these agents deal with young men, they are even promised two wives. (Laughter.) A wise man would consider that even one wife would be too many, but these are poor labourers without any education, they are ignorant and knowledge naturally comes a little late to them. By employing such methods, these poor people are tempted to the towns. With cash in their pockets and plenty of scope for enjoyment, with all the nice things that they are given to eat and with the promise that they would be eating likewise thereafter and with so many other facilities to have a good time they are promised, these poor people are enticed away to the nearest town. They are taken there to all sorts of disreputable houses and are demoralised; and often they are taken to drinking booths. In this condition, Sir, these poor, illiterate people are asked to enter into a contract with the employers. The way in which the indenture system has been working was a big scandal. A hue and cry was raised against it, and as a result the Provincial Governments came to the rescue of these people and passed certain legislation to prevent this sort of propaganda. That legislation protected the labourers from falling victims to the agents in the manner they did. Such being the case, it is very difficult to believe that everything that can be done could be done under this Act unless the Select Committee go into the very details of this question and see how best they can, if not actually substitute, at least secure equal protection that these labourers were hitherto enjoying by such rules as would make it impossible for any exploitation of labour in that direction; or else it is very difficult to understand how this measure will be useful.

Mr. B. Das (Orissa Division: Non-Muhammadan): I am a good deal interested in this measure. I come from Orissa, and since 1866 lots of people have left Orissa and they have never returned to their homes. As far as I understand from my Honourable friends Mr. Fox and Mr. Joshi there are at present 50,000 Oriya labourers employed in the Assam tea gardens. Nine years ago when I became a Member of this House, and found my Honourable friend Mr. Joshi fighting his solitary battle on the floor of this House against a House that showed him no sympathy with problems of labour, my heart went out to Mr. Joshi, and from that day, whenever any measure came up before the House for ameliorating the condition of the working classes, Mr. Joshi always had my sympathy. When I heard to-day Mr. Joshi, I found he was speaking in a tone of

[Mr. E. Das.]

jubilation. He was speaking in a tone of confidence, as if he was the Ramsay Macdonald of India on the eve of the formation of the National Cabinet. No doubt he had every reason to express satisfaction, because to-day he finds the two stalwarts of Government, the Honourable Sir Joseph Bore and my friend Mr. Clow—and I hope my Honourable friend Mr. Clow will speak later on—two stalwarts of the Government agree with him and are carrying out the spirit for which Mr. Joshi worked for the last 11 years on the floor of this House. In the years 1924-25 I used to find, when a question was asked about the Assam labour, the gentlemen who replied from the Treasury Benches were unsympathetic and they used to contest at every stage Mr. Joshi's charges. But to-day I find, after reading the Report of the Royal Commission on Labour, at least my Honourable friend Mr. Clow, who is an expert on the side of Government on labour problems, agreeing with my Honourable friend Mr. Joshi. It has taken Mr. Clow six or seven years to come into entire agreement with Mr. Joshi. That is a good omen. That shows that the world is tending towards socialism and towards dealing with the working classes humanely. I listened most attentively to my Honourable friend Mr. Fox and I thought that during the first part of his speech he was reasonable, and he wanted that the working classes should be treated properly. But somehow he hinted that there was a conspiracy whereby the Government and the representatives of the working classes are going to deal hardly on the tea gardens so that that particular industry may not thrive. My Honourable friend pointed out that in the year 1915 the penal contract system had been abolished. It might have been abolished on paper, but so far as I know the indenture system continued till 1923 or 1924.

Mr. H. B. Fox: No, Sir.

Mr. B. Das: It might not have been continued on paper, but it continued in practice.

Mr. H. B. Fox: No.

Mr. B. Das: When I spoke last year on the Resolution about forced labour, I said that although in actual writing it does not continue, the penal system continues under the civilised administration of the Government of India. My Honourable friend says that the working classes are paid well in Assam tea gardens. As far as I know, in 1923-24 the wage of an adult was Rs. 3 or Rs. 4. I admit that it is three times that now, it is Rs. 12, thanks to the efforts of my Honourable friend Mr. Joshi, and also to the kindly sympathy of my Honourable friend Mr. Clow. In 1924-25, we found people were allowed wages of Rs. 4 which did not keep their bodies and souls together. And what happened to those lakhs and lakhs of Oriyas who left Orissa in the great famine of 1866? They never returned to their homes, because the wages that were paid in kind and in money amounting to Rs. 3 or Rs. 4 never allowed them to save sufficient money to return to their homes. So, I congratulate my Honourable friend Sir Joseph Bore on bringing in a measure whereby there will be repatriation of a labourer after three years. At least the man will go back to his wife or to his children from whom he had been seduced and separated, seduced actually by the recruiters or even by the Labour Boards which have been organised by the Provincial Governments at

present. Another thing that I welcome in this Bill is the abolition of the Assam Labour Board, and I welcome the appointment of a Controller of emigrant labour. My Honourable friend Mr. Abdul Matin Chaudhury has suggested that the Controller and Deputy Controller should be Indians. I am not concerned at present whether they will be Indians; what I am concerned is that they should be humane. I have had occasion to hear that the members of the Labour Boards in Bihar and Orissa and in the Central Provinces recruit labour for these Assam tea gardens. There is no difference between this system of recruitment and what I have read of the slave drivers who wished to recruit slaves from Africa and transfer them to America. It may be that they do not recruit them under the indenture system, but the same system prevails in practice. There can be no break in that system unless there is a complete change as suggested in this Bill. I wish it had been possible for the Government to see that when labour is recruited, if some of them wish to stay in Assam for long periods, a sufficient number of women are also recruited from the locality from similar castes. In the past it was not possible because, as my Honourable friend Mr. Raju pointed out, the men were seduced to go to Assam under the pretext of high wages and they never returned home. They never had a chance to write even letters to their homes. How could they write letters when these tea gardens are secluded areas and no member of the public is allowed to visit them or to meet these workers. When the Controller of Emigrant Labour has organised his office, he should keep a regular register of all workers that go to Assam and he should also supply a list of men and women that are recruited from particular districts to the district officials of those districts so that when enquiries are made about the labourers who are lost, the district magistrate should be in a position to supply the information. It is a very pitiable thing that in Orissa in almost every village you will find a man is absent for 20 or 30 years and no trace of him has been found. I know that Oriya labour goes to Burma, to Bengal and other places, but they write to their homes, but in the Assam tea gardens the labourers are never allowed to write to their relations. When my Honourable friends Mr. Amar Nath Dutt and Mr. Mitra speak on this motion, they will reveal how even educated men have been coerced in the past under the indenture system and they were not allowed to write letters to their homes. So, when the intention of the Government and of my Honourable friend Sir Joseph Bore is to produce humanised conditions, it is not too much for me to ask that every labourer who goes to Assam even under the present system should be helped to keep in touch with his home.

My friend Mr. Fox said that it is the tea planters who gave travelling allowance to these indentured labourers in the past to whom the Government of Assam had given six lakhs of acres of land to cultivate and settle down. I do not know whom to thank for this, the Government of Assam or the tea planters. The tea planters took away men from their homes under a system of forced labour as it exists in Africa to-day, and when these labourers had no money to go back to their homes, the Government of Assam came to their rescue and gave them certain plots of land. From what I know of Assam, the Government have too much land with nobody to cultivate it and if my friend Mr. Fox and his predecessors take credit for it, I think the credit is not due to them. Serious charges were made by my friend Mr. Abdul Matin Chaudhury and my friend should have pleaded guilty to the mistakes made by his predecessors in the past.

[Mr. E. Das.]

Instead of behaving as civilising agents, they behaved as slave drivers and they treated the labourers in the most inhuman way. These people ought not to have been seduced from their homes. I believe they paid their agents something like Rs. 150 per head. I wish that all that money comes to the labourers in the shape of wages instead of going in bribery and to the Labour Board, which although the Government and my friend Mr. Clow may tell me is a humanising organisation, is the inheritor of traditions of the old indenture system. With these few words, I whole-heartedly support the Bill.

Mr. A. G. Clow (Government of India: Nominated Official): We have had a long debate, Sir, and to me an interesting one. I do not propose to go into the points of detail that have been raised. They were raised, I think, entirely by Honourable Members who it is proposed should serve on the Select Committee, and they can be better discussed there. I would however like to say just a little about the principles of the Bill, and about certain principles which are not in the Bill but which I gather some Members would have liked to have seen there.

Of the principle of repatriation I have heard no criticisms. It affords indeed an answer to a good many of the difficulties which some of my Honourable friends mentioned? As regards what was said by my friend Mr. Das, this is really a safeguard, for it provides that the man if he wishes can get into touch with his own country, and that he will be able to return there if he so wants, with his family, within three years. I would emphasize here, in fairness to the planters and in reply to the suggestions that conditions in Assam are not on a high moral plane, that they unlike most employers in India have always tried to recruit families rather than individuals. I have no reason to believe that in Assam, the high standard which is maintained throughout the Indian villages is not fully sustained.

Rao Bahadur B. L. Patil (Bombay Southern Division: Non-Muhamadan Rural): Is not the population of female workers more than the population of male workers?

Mr. A. G. Clow: It may be so. I have not the actual figures before me but there is a much better sex ratio here than in any centre of industry in India.

The main principle of the Bill is the abolition, so far as it is possible, of restrictions on the free movement of labour. The enunciation of this seems to have misled my Honourable friend Mr. Abdul Matin Chaudhury, who in some other respects, such as the extent of the Controller's powers, did not seem to be very familiar with the provisions of the Bill, into supposing that we were in some curious way giving the Assam employers special facilities for stimulating, I think he said, the flow of labour. Actually the position is somewhat different. So far from giving the Assam employer special facilities, the Bill either continues or imposes upon him restrictions to which no other industry is subject and to which not even the tea planters in other provinces will be subjected.

Mr. Abdul Matin Chaudhury: Is it not a fact that in some of the districts of the United Provinces recruitment for Assam is prohibited. Under the provisions of this Act, they will be free to recruit from those districts?

Mr. A. G. Olow: It is perfectly true that certain districts of the United Provinces are at present closed to recruitment, but under this Bill there will be no possibility of saying to a person in a single part of India that he shall not proceed to another part.

Mr. Abdul Matin Chaudhury: Is it not a fact that you are facilitating recruitment by this Bill?

Mr. A. G. Olow: My Honourable friend Mr. Raja suggested that the only restrictions imposed were those imposed on employers, but actually that is not the case. If he were to go to some of the men in the tracts he was speaking of some of whom are subject to the grave disabilities mentioned by Mr. Joshi and say to them that Assam is a much better place, he might find himself in danger of arrest, and if out of the kindness of his heart he were to pull out a few rupees and say "Here is your fare" he could certainly be subjected to a criminal prosecution.

Mr. Abdul Matin Chaudhury: Why should not the Local Government stop it?

Mr. A. G. Olow: I do not propose to enlarge on that question. It can be discussed in the Select Committee.

Mr. H. B. Fox: These districts in the United Provinces which were closed to recruiting were only closed for the benefit of the employers and the zamindars of the United Provinces.

Mr. A. G. Olow: I think there is no advantage in entering into that controversy though there is truth in the suggestion that they are not in the interests of labour. As a matter of fact, even when this Bill is passed, the employer in Assam will continue to be subject to peculiar restrictions. That, as Mr. Fox and Mr. Joshi explained, is largely the result of history; and my Honourable friend Mr. Das was treating us, I think, more to what is a matter of history than a recital of present day conditions. I am glad to say that there is nothing now approaching indenture in Assam, and if this Bill is passed the last mention of any kind of criminal contracts for labourers will have disappeared from the Indian Statute-book.

Mr. B. Das: Let us hope so. I agree with you.

Mr. A. G. Olow: There were other references to entirely different subjects, and I should like just to mention some of them in conclusion. There were suggestions that the recommendations made by the Commission in other parts of their report dealing with such questions as minimum wages, health and welfare might have found a place in this Bill. These of course stand on a very different footing. In the first place, this Bill deals with migration, which is a Central subject, whereas these subjects are Provincial. In the second place, the Commission themselves did not regard these recommendations as capable of immediate application. In the case of minimum wages, they recognized, that the material was not available and that a good many statistical and other investigations would have to be conducted before the Local Government would be in a position to introduce anything of that kind. I may inform the House that actually the Assam Government has taken one step in that direction for it deputed

[Mr. A. G. Clow.]

a gentleman very well known to this House, Mr. Cosgrave, to visit Ceylon last Christmas with a view to ascertaining how the minimum wage Ordinance was working in that island. As regards health, my Honourable friend Mr. Thampan knows that that is a provincial transferred subject, and it will be for the Local Governments to do what they think fit on that subject. Actually the recommendations of the Commission regarding health were not restricted to Assam; and if I were asked in what places they were most urgently needed, I do not think I should select Assam as the first. The Commission were not under the impression that Assam was the workers' paradise to which some Honourable Members referred, but I can assure the House of one thing, namely that I know of no group of employers in industries who do so much for the health of their workers as the planters in Assam. (Loud Applause.)

Some Honourable Members: The question may now be put.

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

The motion was adopted.

The Honourable Sir Joseph Bhore: Sir, I have nothing to add to what Mr. Clow has said.

Maulvi Sayyid Murtuza Saheb Bahadur: Sir, with your permission, I would simply ask permission to propose the addition of the name of Mr. Uppi Saheb Bahadur, who is much interested in Indian labour. I hope the Honourable the Mover will have no objection.

The Honourable Sir Joseph Bhore: I have no objection if the Honourable Member is willing to serve.

Maulvi Sayyid Murtuza Saheb Bahadur: He is willing to serve.

Mr. President: The question is:

"That the Bill to amend the law relating to emigrant labourers in the tea districts of Assam be referred to a Select Committee consisting of Sir Cowasji Jehangir, Mr. K. Ahmed, Mr. C. C. Biswas, Mr. Abdul Matin Chaudhury, Mr. A. G. Clow, Mr. H. B. Fox, Mr. N. M. Joshi, Mr. B. N. Misra, Mr. H. P. Mody, Mr. G. Morgan, Mr. Tin Tüt, Mr. T. R. Phookun, Mr. Gaya Prasad Singh, Mr. K. P. Thampan, Mr. Muhammad Yamin Khan, Sir Frank Noyce, Mr. S. G. Jog, Mr. Uppi Saheb Bahadur, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

THE PORT HAJ COMMITTEES BILL.

Sir Frank Noyce (Secretary, Department of Education, Health and Lands): Sir, I move:

"That the Bill to establish Committees in the principal ports of pilgrim traffic to assist Mualim pilgrims to the Hejaz be referred to a Select Committee consisting of Khan Bahadur Haji Wajihuddin, Kunwar Haji Ismail Ali Khan, Sir Abdur Rahim, Maulvi Sayyid Murtuza Saheb Bahadur, Maulvi Muhammad Shafee Daoodi, Sir Hari Singh Gour, Mr. A. H. Ghuznavi, Mr. M. Maswood Ahmad, Lieut. Nawab Muhammad Ibrahim Ali Khan, Haji Choudhury Muhammad Ismail Khan, Mr. Rahimtoola M. Chinoy, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

It will be noticed that the composition of this Committee differs somewhat from the one to which I moved reference of another Bill this morning. The reason for that is that, as I think the House will agree, this question

of establishing Haj Committees at the ports is really a matter of domestic concern for the Mussalman community, and it is for that reason that the members of the Select Committee have, with two exceptions, been found from the Muslim Members of this House. The two exceptions are myself, as the Secretary in the Department concerned, and Sir Hari Singh Gour, who has been added to the Committee owing to the desirability of having at least two Members on the Committee who can, if necessary, act as

3 P.M.

its Chairman. As regards the principle of the Bill, I think there can be no question. It is only in regard to details that there may be some differences of opinion and those can be threshed out in Select Committee. There are one or two points on which I may perhaps comment. It would make things very easy for us if we could accept the suggestion of my Honourable friend, Sayyid Murtuza Saheb Bahadur, and accept the recommendations of all our Committees *in toto*. Had we been able to do that in this case, it would have saved my Department and myself hours of work. No references to Local Governments would have been necessary, and we should not have had to call on the Standing Haj Committee for the advice which is so generously and freely given. I have no doubt whatever that the recommendations of Committees represent the best, but unfortunately in this work-a-day world it is the duty of Government to decide how far of the best can be converted into the practical, and that we have had to do in this case. We have had to consult the various interests concerned, and above all we have had to defer to some extent to the views of the Local Governments who are very keenly interested in this matter. For that reason, the composition of the Port Haj Committees, which we have suggested in the Bill, differs considerably from that suggested by the Haj Inquiry Committee in its Report. It will be seen that the composition of the various Committees differs *inter se*. We have got a different Committee for Calcutta, a different one for Bombay and a different one for Karachi. The reason for that is that, acting on the advice of the Standing Haj Committee, which I should perhaps say was given by a majority, we have decided to follow the advice of the Local Governments. But we are not laying down a rigid composition for the Committees: if it is found at a later date that any alterations are necessary, those can be effected without an amendment of the law. I submit to the House that until some experience of the working of these Committees is gained, it is desirable that we should adopt the course which has been suggested by the Local Governments concerned, as they have far more accurate knowledge than I think even the Haj Inquiry Committee or the Standing Haj Committee would claim of local conditions and requirements. It is again exactly for that reason that we have not followed the recommendations of the Haj Inquiry Committee that the Port Haj Committee should elect their own Chairman. But we have given power to the Local Governments to decide whether they will appoint a Chairman or will allow the Port Haj Committee to elect its own Chairman. That view is based on the argument, in which I think there is considerable force, that until the re-constituted Port Haj Committees have found their feet and are working smoothly, it is desirable that the Local Government should exercise a certain amount of control over their working, and the most effective method of doing that is that they should nominate the Chairman.

Again with regard to the appointment of the officers and servants of the Committee, the Haj Inquiry Committee recommended that the Executive Officer of a Port Haj Committee should be appointed by the Committee itself subject to the approval of the Government. Here again.

[Sir Frank Noyce.]

after consulting the Local Governments concerned and acting on the advice of the Standing Haj Committee, Government have decided that at the outset the Executive Officer and other servants should be appointed by the Government and that the cost involved should be met from the Central Revenues. Clauses 14 to 16 of the Bill are designed to give effect to this proposal. The power to appoint Executive Officers and other servants will, as in the case of the Chairman, be helpful to the Local Government in securing the smooth working of these Committees. Another reason why it is desirable at the outset that the Executive Officer and other servants of the Committee should be appointed by Government who should meet their cost, is that we are not yet certain how far the funds which are being placed at the disposal of the Haj Committee, and which will be found enumerated in clause 20, will meet their needs. Experience alone can show that. I would submit in conclusion that we are not laying down a rigid method of procedure. What this Bill does is to convert the present Haj Committees, which are purely consultative and advisory bodies, into executive bodies with definite powers. What it also does is to enable Local Governments, as the Haj Committees prove their worth—I have little doubt they will—to enlarge their functions and to give them greater powers without the necessity of coming back to this House for amendments of this measure. I submit to the House that this is the best method of procedure. With these words I would commend this motion for the acceptance of the House.

Mr. S. G. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, in the Preamble to this Bill it is stated: "to establish Committees in the principal ports of pilgrim traffic to assist Muslim pilgrims to the Hejaz". In the Statement of Objects and Reasons it is said:

"The Haj Inquiry Committee therefore proposed that the Port Haj Committees should cease to be merely advisory and consultative bodies and should be entrusted by law with the administration of all work connected with the pilgrim traffic at the ports."

If that is the object and if that is the principle, I have no quarrel and I fully agree with the general principles, but when I go through some of these clauses of the Bill I find that in clause 4 the Committees are constituted in such a way that there shall always be a majority of nominated members in all these Committees. I should like to make it perfectly clear, if that is the principle to which this House is to be committed, then I take exception to the principle. I have seen that in clause 4 there is a provision for 19 members for the Port of Calcutta for the composition of Port Haj Committees. Of these members 15 are nominated, and of them as many as five may be officials and only four members are to be elected by the Muslim members of District Boards in Bengal. The condition in Bombay is a little better. There, out of 19 members of the Committee, it appears, nine should be nominated members. I do not know why in Calcutta the proportion of nominated members is so very high. I wish the Honourable Member to explain to this House why, in these days of full Dominion Status and other high sounding phrases, in a small Committee where the Muslim members are expected to help Government by their advice for the assistance of the Muslim pilgrims going to Hejaz, there should be a majority of nominated members. Why should the Muslim members not be entrusted with the task of electing their own men in whom they have full confidence? Why should the Local Government usurp to themselves these powers, and why they should think that they

are the best judges of the interests of the people, even in religious matters, where they are going to help their own co-religionists? As regards the composition of the Karachi Committee, I find the same thing. In that Committee, there are 17 members, of whom eight members are nominated by the Local Government. What special claim have the Local Governments to nominate their own men on these Committees, when properly the Municipalities and in some places the District Boards should elect members to these Committees? That is the one general principle to which I have objection, and if that is the principle, I think the House will be well advised in opposing this measure going to the Select Committee unless Government explain that that is not the principle to which the House is committed.

There is a slight matter in clause 4 (2) (c) regarding elected Muslim members of the Bombay Medical Council. I submit this should not be confined to Muslim members alone. Here you want medical advice, I think non-Muslims also can offer their best advice in this matter. That is however a small matter. I should like to press on the House that the main ground for consideration of the House is that the Select Committee should be free to alter the composition of these Committees in a way that there should be not only a slight majority, but a large majority of elected members in the Committees of the different ports.

Mr. Muhammad Anwar-ul-Arim (Chittagong Division: Muhammadan Rural): I had not the least idea of speaking on this motion, but it appears that Government in a quiet way have brought in such an important piece of legislation when they thought perhaps that in a thin House it would be possible for them to have it passed uncontested. As one who comes from a province wherefrom a large number of Hajis go over to Hejaz for pilgrimage every year, I think it would be pertinent on my part to say a few words on the principle of this Bill. We have been told, day in and day out, with regard to the coming millennium, that it is likely to come within the next one or two years where the rule would be that all the non-officials would be elected and so forth, but it appears to me, though in a disguised form, the Honourable Member who introduced this Bill has said that perhaps it is not likely to bind the coming Assembly, with regard to the principle of the Bill, but still I think the mischief will be committed if this Bill is allowed to go in this way even to the Select Committee without some sort of criticism. My Honourable friend Mr. Mitra has very pertinently pointed out that, whether it has been the result of a long thought-out deliberation on the part of the Department of my Honourable friend Sir Fazl-i-Husain, or whether it is the result of the deliberations of the majority of the Standing Haj Committee of this Assembly that this principle has been introduced, the mischief is there. If I am not giving out any secrets, it seems to me that with regard to the composition of the Port Haj Committee at Calcutta, the Government of India have surrendered body and soul to the representations of the Government of Bengal. It seems that some unfair pressure was put on the Standing Haj Committee of the Government of India, and perhaps that unfair pressure is responsible for this most unbusiness-like constitution which they have suggested for the Calcutta Committee. It surpasses one's comprehension that the Government of India, over which my Honourable friend Sir Fazl-i-Husain presides, should come to this Assembly with this form of constitution. You know to whom this Committee will be responsible: they will be responsible to the people in that tract of land starting

[Mr. Muhammad Anwar-ul-Azim.]

from Sadiya in the North East, down to my place in the South East and Bihar to the West. That is a very large tract of land, and to have this huge tract represented at Calcutta in the manner proposed seems, to put it mildly, puerile. I am really surprised that the Government of India could only think of giving representation on that Committee to the extent of four non-official Muslims, who might perhaps be members of the District Boards. Perhaps the only exception is this: that the people who might be eligible for membership might be non-members as well; but it seems so bad that they could not think of any other method for giving the moffussil area of Bengal an effective voice in this matter except to the extent of allowing only four seats on that body. If you proceed a little further, Mr. President, you will see that perhaps the composition of the Committees at Bombay and Karachi is also not very happy; but still I think the Select Committee will be very well advised to take notice of the fact that in the year of grace 1932 this sort of retrograde thing is proposed and whether they should allow such a non-chalant Government like the Government of Bengal to ride rough shod over the wishes of the people. We have the advantage of legal luminaries like Sir Abdur Rahim and shrewd men like Mr. Ghuznavi on the Select Committee, and I hope and trust that they will modify this clause 4 at least, which relates to the composition of these Committees, in such a way that it might be agreeable to all of us. Mr. President, Bengal is a very large province, and the Muslim population is as docile, as could be imagined. They are a loyal band, and they could surely be trusted to elect their own men to serve on that Port Committee at Calcutta.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Mr. President, I am very much obliged to my friend, Mr. Mitra, for drawing my attention to this particular clause of the Bill which is sought to be referred to a Select Committee. It does strike one as rather strange that in Bengal, neither the Local Government nor the Government of India could find a large enough constituency for Muslims to elect a few members of the Committee for this purpose. It is not a question of principle. I take it the principle that is involved is that a Committee will be established in the principal ports of pilgrim traffic to assist Muslim pilgrims to the Hejaz; and it does not seem to be necessary even for Bengal that there should be a preponderance of members nominated by the Government. I take it that is a point more or less of detail which can be rectified in the Select Committee. If that is so, I think it may very well be left to the Select Committee to rectify the mistake.

Haji Chaudhury Muhammad Ismail Khan (Bakarganj cum Faridpur: Muhammadan Rural): Sir, I have to congratulate the Honourable Member in charge of the Bill on having framed this Bill; but I cannot for a moment accept clause 4 of the Bill, whereby 15 out of 19 of the members are to be nominated. I do not see why what has been found possible in the case of Bombay and Karachi has been found impossible in the case of Bengal. I hope the House will agree with me when I say that there is no justification whatsoever for this kind of differentiation of one province from the other. By so doing, the Government have not formed a correct opinion about Bengal, which is one of the first and foremost in point of the huge number of pilgrims. At the last meeting of the Standing Haj Committee in Simla, I opposed the procedure of nomination vehemently;

and some other members including Mr. Clayton supported me; but I now see that the Government of India have not heeded our joint opposition. I hope the Select Committee will mend the matter.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): Sir, I do not rise to oppose this reference to Select Committee but to point out that the only representative from my party on the Select Committee is Sir Hari Singh Gour. I would suggest the name of Bhai Parma Nand also to be added to the Select Committee. I do not look upon this as an essentially Muslim business; it has no communal outlook at all, though the position as put in the Bill is only communal. I do not like the communal aspects of this Bill, for instance, if you refer to clause 4, you will find that it is communal throughout, including the Medical Council of Bombay—for instance where it says: "The elected Muslim members of the Bombay Medical Council". Communalism so far as Muslim doctors alone ministering to the Muslim pilgrims is open to very serious objection, and incidentally affords comment upon our ambition to develop democratic institutions in our country. I hope the Honourable gentleman will accept my suggestion in regard to Bhai Parma Nand being included in this Committee, because as our party has only one representative on this Committee, it is entitled to adequate representation; and whatever controversial clauses there may be in this Bill, it is not a matter to be discussed at this stage, but in the Committee; and the object of all the members of the Committee should be to ameliorate the conditions of Muslim pilgrims to the Hejaz, a subject on which there can be no controversy whatever.

Mr. President: Does the Honourable Member agree to the addition of the name suggested?

Sir Frank Noyce: I am really in a somewhat difficult position, Sir. . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair will explain the position to the Honourable Member. A suggestion is made for the addition of a name. The Member in charge is entitled either to accept the name or to refuse to do so. If the Member in charge refuses to accept the suggestion, then the Member making the suggestion is entitled to move it in the form of an amendment. That is the correct procedure. The Chair wishes to know, in the first instance, whether the Honourable Member is agreeable to accept the suggestion of Mr. Ranga Iyer?

Sir Frank Noyce: I regret, Sir, that I am unable to accept the suggestion. We readily accepted the suggestion made this morning that Bhai Parma Nand should be added to the Select Committee on the Indian Merchant Shipping (Amendment) Bill, because that involves issues which do not entirely affect the Muslim community. This is

Mr. President: The Honourable Member need not give his reasons at this stage.

Sir Frank Noyce: I am sorry, Sir.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member has stated that he is not willing to accept the suggestion. If the Honourable Member who made the suggestion moves an amendment to add the name, the Honourable Member will be entitled to give his reasons in opposing it. This is not the stage when these reasons can be given.

Mr. C. S. Ranga Iyer: May I move, Sir, that the name of Bhai Parma Nand be included in the list. I can easily tell the Honourable Member in charge of the Bill that if he does not include the name that I suggest, so far as this particular Bill is concerned, it may be that at a later stage there may be difficulties in the passing of this Bill. My only object in making the suggestion is to avoid future difficulties in the passing of the Bill so that, whatever discussion there might be in regard to this Bill *in camera*, it will not be public property, but it will be so when the Bill emerges from the Select Committee. Therefore mine is a very helpful suggestion. I do not propose to press my motion to a division, but I thought it was my duty to tell the Government that all these matters could be better discussed inside the Committee than on the floor of this House before the Bill emerges from the Select Committee.

Mr. President: Amendment proposed:

“That the name of Bhai Parma Nand be added to the list forming the Select Committee proposed by the Honourable Member, Sir Frank Noyce. Both the original motion and the amendment are now before the House.”

Maulvi Muhammad Shafee Daoodi (Tirhut Division: Muhammadan): Mr. President, I have been trying to find what is exactly at the back of my Honourable friend's mind when he suggests that Bhai Parma Nand's name should be included in the list of members of the Select Committee

Mr. C. S. Ranga Iyer: Bhai Parma Nand is a member of my party.

Maulvi Muhammad Shafee Daoodi: Bhai Parma Nand might be a very good man to advise us as to how legislation should proceed in matters which concern his own community, but I submit that in a matter like this, which exclusively concerns the Muslim community, he will not be able to give us much help

Mr. C. S. Ranga Iyer: Then why do you want Sir Hari Singh Gour?

Maulvi Muhammad Shafee Daoodi: If my friend's contention is that there should be some one from that side, I mean from the Nationalist Group, on this Committee, that is a different matter altogether.

Mr. C. S. Ranga Iyer: That is exactly my position; I stated so.

Maulvi Muhammad Shafee Daoodi: Therefore, I was going to say that there is already one Member, who is the Leader of the Nationalist Party, on the Select Committee, and I do not know why in spite of that, Bhai Parma Nand's name should be added.

Sir Abdur Rahim: I think, Sir

Mr. President: Are you speaking on the amendment?

Sir Abdur Rahim: Yes, Sir; I think we ought to accept the suggestion put forward by Mr. Ranga Iyer, which is, as I understood him, that he wants his party to be properly represented

An Honourable Member: Sir Hari Singh Gour is already there.

Mr. C. S. Ranga Iyer: Supposing he is ill?

Sir Abdur Rahim: Supposing the Leader of Mr. Ranga Iyer's party is ill; or he wants some one else to be on the Committee to represent his party. From that point of view I do not think myself there can be any objection at all to this suggestion.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): I think, Sir, my friends the Muslim Members must welcome the suggestion made by my friend Mr. Ranga Iyer. When my friends find that the Hindu Members are willing to co-operate with us or to lend us any help, such help should be sincerely welcomed and appreciated, and there can be no objection whatever to the suggestion made by my friend Mr. Ranga Iyer. If there is any apprehension in the minds of certain Honourable Members that their views might be opposed by a man like Bhai Parma Nand then I should always welcome such a man who is always opposed to me to be with me to see that what I am doing is the right thing and convince him in private conversation while sitting in the Committee that we are right and shut up his mouth from publicly opposing any measures affecting our community without having an adequate idea of the peculiar difficulties affecting these pilgrims. I see no objection, therefore to the suggestion of my friend Mr. Ranga Iyer, rather I welcome it, and strongly support the motion.

Sir Frank Noyce: In view of what has fallen from Sir Abdur Rahim and Mr. Yamin Khan, I entirely withdraw my opposition to the proposal.

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I should like to speak a word or two on the main motion. I am not interested in this Bill. I may also confess at the same time that I have not cared to go through the Report of the Haj Committee, but on going through the several sections of the Bill, it struck me that I might at this early stage venture to suggest that some kind of statutory provision may be made to appoint one Moplah on the Bombay Committee. Sir, the Moplahs on the West Coast form a peculiar community. They do not know the Urdu language or the language that is spoken in Arabia or Hejaz and they form by themselves a separate class. I know though they are very deeply religious they are illiterate and many of them go to Hejaz every year. If there is any class of Muslims who stand in need of protection and advice in such matters it is the Moplahs. I find there is provision for as many as 10 elected members on the Committee, but there is absolutely no chance for any Moplah to seek election into the Committee

Mr. Rahimtoola M. Ohinoy (Bombay City: Muhammadan Urban): May I inform the Honourable Member that the Deputy Protector of Pilgrims in Bombay is a Moplah?

Mr. K. P. Thampan: I am very glad to hear it, and I only want the same to continue in the future also. I am aware that my friend Mr. Uppi Saheb who represents them in their House is more competent and

[Mr. K. P. Thampan.]

would have been able to deal with this matter much better than I can do but unfortunately I do not find him now in his seat here. I therefore take this opportunity to appeal to the Government and the general body of Muslim Members at this early stage that it may be statutorily provided to appoint at least one Moplah on the Committee in Bombay.

An Honourable Member: The question may now be put, Sir.

Mr. President: I accept the closure.

Before calling upon the Honourable Member to reply, I should like to ask Mr. Ranga Iyer whether in view of the fact that the addition of Bhai Parma Nand's name has been accepted by the Member in charge, he would withdraw his amendment?

Mr. C. S. Ranga Iyer: Yes, Sir.

The amendment was, by leave of the Assembly, withdrawn.

Sir Frank Noyce: Sir, I have very few words to say. The only important point which has been raised in connection with this motion is the constitution of the Haj Committee at Calcutta, Bombay and Karachi, and I need hardly say that this is a matter which is open to discussion in the Select Committee. Government are not committed to any definite figure under any of the various heads. The only other point, Sir, that I have to deal with is that made by Mr. Thampan, and I have little doubt that his proposal to appoint a Moplah to the Bombay Haj Committee will be duly considered by the Select Committee.

Mr. President: The question is:

"That the Bill to establish committees in the principal ports of pilgrim traffic to assist Muslim pilgrims to the Hejaz, be referred to a Select Committee consisting of Khan Bahadur Haji Wajihuddin, Kunwar Haji Ismail Ali Khan, Sir Abdur Rahim, Maulvi Sayyid Murtuza Saheb Bahadur, Maulvi Muhammad Shafee Daoodi, Sir Hari Singh Gour, Mr. A. H. Ghuznavi, Mr. M. Maswood Ahmad, Lieut. Nawab Muhammad Ibrahim Ali Khan, Haji Chaudhury Muhammad Ismail Khan, Mr. Rahimtoola M. Chinoy, Bhai Parma Nand, and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

THE HEJAZ PILGRIMS (MUALLIMS) BILL.

Sir Frank Noyce (Secretary, Department of Education, Health and Lands): Sir, I move:

"That the Bill to regulate the activities of persons in British India who offer to assist Muslim pilgrims to the Hejaz be referred to a Select Committee consisting of Khan Bahadur Haji Wajihuddin, Kunwar Haji Ismail Ali Khan, Sir Abdur Rahim, Maulvi Sayyid Murtuza Saheb Bahadur, Maulvi Muhammad Shafee Daoodi, Sir Hari Singh Gour, Mr. A. H. Ghuznavi, Mr. M. Maswood Ahmad, Lieut. Nawab Muhammad Ibrahim Ali Khan, Haji Chaudhuri Muhammad Ismail Khan, Mr. Rahimtoola M. Chinoy, Bhai Parma Nand, and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. M. Maswood Ahmad (Patna and Chota Nagpur *cum* Orissa; Muhammadan): This is a very important Bill. It imposes many restrictions on those *muallims*, who are generally foreign subjects. Not only that, but it gives powers of control to the Central Government and the Provincial Governments. Clause 3 deals with the power of the Governor General in Council to make rules. Clause 5 deals with the power of Local Governments to make rules. Clause 6 deals with the penalty for acting as a *muallim* without a licence. Clause 7 deals with presumption regarding motive, clause 8 deals with the penalty for contravention of the conditions of licence, and so on. At the same time, although this Bill has been brought forward on the recommendations of the Haj Committee, I will say that there were two kinds of recommendations. One was open recommendation and the other was confidential recommendation and as far as I remember, no comment has appeared in any paper on the confidential recommendations at any time. Further when such an important measure is referred to a State Committee, the opinions of the Local Governments and of the *Ulemas* and other Muslim institutions should be before the Committee for their guidance. I therefore request the Honourable Member in charge to at least circulate this Bill by executive order. If the Honourable Member in charge finds any difficulty even in doing so, then I suggest that a few copies in Urdu should be supplied to Members to send them out to different newspapers, Muslim institutions and *Ulemas*, or he should ask Members to give a list of the institutions, persons, newspapers, and *Ulemas* to whom the Bill can be sent for opinion, because this is a very important matter and *muallims* are generally inhabitants of a foreign country and they are restricted by this Bill. There are also other things in this Bill. So, the opinion of *Ulemas* and others must be taken, and I request the Honourable Member in charge to consider my suggestion.

An Honourable Member: What about Maulvi Muhammad Shafee Daoodi and Maulvi Sayyid Murtuza Sahib Bahadur?

Mr. M. Maswood Ahmad: They are not *Ulemas* as far as I know. A man who is called a Maulana does not mean that he is an *alim* and he has read all the verses of the Koran. (Laughter.) When I said verses of the Koran, I mean a detailed study of the Koran with its several interpretations and meanings. There are many *Hadises* and things like that. There is one series which is called *Sahah Sifla* contains many books and volumes. There are many other series in *Hadis*.

Maulvi Sayyid Murtuza Sahib Bahadur (South Madras: Muhammadan): I should thank the Honourable Member Mr. Maswood Ahmad for having given a certificate in favour of Maulana Shafee Daoodi and myself. (*An Honourable Member:* "Not a certificate".) Yes, it is a certificate, saying that so and so are not *Ulemas*. We do not pose ourselves as highly cultured accomplished men so far as Islamic theology is concerned, but my Honourable friend should at the same time know that whatever is wanted for the observance of Islamic tenets Maulana Shafee Daoodi and myself are supposed to know. I should bring to the notice of the House in this connection that he has cast a slur on our Committee—I mean the last speaker, Mr. Maswood Ahmad. He said, I think that our committee submitted two reports, one being public and the other a confidential one. I repudiate that charge on the floor of this House. So far as we are concerned, we did not at all send any confidential report, and we

[Maulvi Sayyid Murtuza Saheb Bahadur.]

do not know what confidential report was sent by our President. He may or he may not have sent any confidential report, but so far as we are concerned, we have sent only one report, and that report is the report which is before the public now. So, my friend Mr. Maswood Ahmad was wrong in having cast a slur on us.

Mr. Muhammad Anwar-ul-Azim (Chittagong Division: Muhammadan Rural): I am grateful to you for allowing me to catch your eye, Mr. President, but I will not take more than two minutes. It is really surprising that Mr. Maswood Ahmad should come and inflict unnecessary remarks on some of the prominent and respectable members of my society who are Members of this House. Mr. Maswood Ahmad perhaps forgot himself in giving support to those gentlemen, the *muallims* who are parasites in our society that he had also a responsibility as a gentleman. The tyranny of the *muallims* is more or less a scandal at least in my part of Bengal. If this Bill does something to mitigate the hardship which is practised on poor Muslims, by the *muallims*, I think it will have done bare justice to some of the people of this country. Besides, the *muallims* are not all of foreign domicile—there are many local *muallims*, who carry on this trade as guides—I do not know if it will be possible to have the opinion of the Governments of Hejaz, and other Islamic countries within such a short time by any executive orders, but I feel that as we are mostly concerned on this side with the safety and tranquillity of the Indian pilgrims alone, this measure may be given a trial, and put on the Statute-book as quickly as possible.

Mr. M. Maswood Ahmad: On a point of personal explanation, Sir. Some of the papers which were supplied to us as members of the Haj Committee were marked confidential. Apart from this I just now enquired and came to know that there are confidential recommendations. I did not say that there was another confidential report, rather I said there are confidential recommendations which cannot be denied. I repudiate the statement if any one claims that there is no confidential recommendation at all.

Maulvi Sayyid Murtuza Saheb Bahadur: Of course, my Honourable friend has modified what he has said

Mr. President: The Honourable Member has already spoken.

Maulvi Sayyid Murtuza Saheb Bahadur: On a personal explanation, Sir.

Mr. President: Let it be a personal explanation only.

Maulvi Sayyid Murtuza Saheb Bahadur: When I said I repudiate his statement, of course, I said that the statement he had made was not a correct one, but so far as Kamraon quarantine and some other international matters are concerned there was a confidential recommendations as advised by the Government.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): I just wish to say one word. Though I have not performed a pilgrimage myself so far, I know as a matter of fact that a Bill of this character is

extremely necessary and will be found to be very useful, especially to the Muslim population of Bengal. I have met some of these *muallims* who come now and then to India to canvass for clients, and we all know that the pilgrims, at any rate many of them, suffer very great hardships at their hands. So far as any of these hardships and difficulties may be mitigated, I think we ought to give every support to the principle and scope of this Bill.

Major Nawab Ahmad Nawaz Khan (Nominated Non-Official): Sir, from the Western Punjab no man has been taken on the Select Committee. Sayyid Rajan Baksh Shah was a member of the Haj Committee and in the interests of the Mussalmans I propose that he should be taken on the Select Committee. He is a leader of the Mussalmans and a *Pir* of that part of the country. Unfortunately my province has not been represented and I do not like to mention my own name. If the Honourable Member in charge agrees, I shall offer myself. If not, I propose the name of Sayyid Rajan Baksh Shah.

Sir Abdur Rahim: I propose that Major Nawab Ahmad Nawaz Khan be also added to the Select Committee.

Mr. President: The first suggestion is Khan Bahadur Makhdum Syed Rajan Baksh Shah's name be added to the Select Committee. Has the Honourable Member in charge any objection?

Sir Frank Noyce: I have no objection.

Mr. President: The second suggestion is that the name of Major Nawab Ahmad Nawaz Khan be added.

Sir Frank Noyce: I have equally no objection.

I am very glad to have had the powerful support of the Honourable the Leader of the Independent Party to the principle of this Bill. There has been no criticism which I have to meet, but I should like to be certain that I have understood exactly what my friend Mr. Maswood Ahmad said. If his desire is that the opinions of Local Governments which were, of course, duly obtained should be placed before the Select Committee, I need hardly say that there is no objection whatsoever to that course. I should be glad to know that I have understood him correctly. (Mr. Maswood Ahmad nodded assent.) That being so, I gladly accept his suggestion. I have nothing more to say except that as this is the last occasion on which I shall appear in my present capacity in this House, I am very glad that it has been in connection with such wholly beneficent legislation as the three Bills, the motions in regard to which I have moved to-day.

Mr. President: The question is:

"That the Bill to regulate the activities of persons in British India who offer to assist Muslim pilgrims to the Hejaz be referred to a Select Committee consisting of Khan Bahadur Haji Wajihuddin, Kunwar Haji Ismail Ali Khan, Sir Abdur Rahim, Maulvi Sayyid Murtuza Saheb Bahadur, Maulvi Muhammad Shafee Daoodi, Sir Hari Singh Gour, Mr. A. H. Ghuznavi, Mr. M. Maswood Ahmad, Lieut. Nawab Muhammad Ibrahim Ali Khan, Haji Chaudhuri Muhammad Ismail Khan Mr. Rahimtoola M. Chinoy, Bhai Parma Nand, Khan Bahadur Syed Rajan Baksh Shah, Major Nawab Ahmad Nawaz Khan and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

RESOLUTION TO AMEND THE PREVIOUS RESOLUTION ON ROADS.

The Honourable Sir Joseph Bhore (Member for Industries and Labour):
Sir, I move:

"That this Assembly recommends to the Governor General in Council that the Resolution on roads adopted by this Assembly on the 4th February 1930, be amended by the deletion from clause 5 of the words:

'As an exception to this rule, the amount available for Burma may, for the present, be spent on any scheme of road development that is approved by the local Government with the concurrence of the local Legislature;'

and the substitution of the words:

'As an exception to this rule the amount available for Burma shall be apportioned separately in the ratio specified in clause 3 (b) (i) between the Shan States and the remainder of Burma. The amount available may, for the present, be spent on any scheme of road development that is approved, in the case of the Shan States by the Governor after consultation with the Federal Council, and in the case of the remainder of Burma by the local Government with the concurrence of the local Legislature.'

I will not detain the House long over this Resolution, which if it is somewhat formidable in appearance, is really in essence extremely simple. The House will note that under the Resolution of the 4th February 1930 in the form in which it was passed by this House, the share of Burma in the road development account accruing from the surcharge on the petrol actually consumed in Burma is to be spent on schemes of road development in Burma with the concurrence of the local Legislature and the approval of the Local Government. This Resolution, unfortunately, overlooked two facts. It overlooked first the fact that the Federated Shan States are a separate sub-entity from the rest of Burma, and secondly it overlooked the fact that under the existing constitution, that is, the Government of India Act and the notifications under the Government of India Act, the local Legislature of Burma is definitely precluded from discussing any expenditure in the Shan States. We have therefore to rectify this defect in the original Resolution, and what we therefore propose to do is this. We propose to calculate separately the share of the Federated Shan States in the Road Development Fund on the same principle that is adopted in all cases, namely the actual consumption of petrol, and we propose that this share shall be applied to schemes of road development in the Shan States by the Governor with the concurrence of the existing Federal Council of the Shan States. Honourable Members will thus see that all that I am doing in bringing forward this Resolution is to adapt it to the actually existing constitutional position. Without that, I am afraid that no money from the Fund can be spent on road development in the Shan States. Sir, I move.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, I rise to support the motion moved by my Honourable friend, Sir Joseph Bhore. Sir, under the present constitution the method suggested in the new amendment entirely meets the position as the situation demands it, and I have nothing further to add.

Mr. Jehangir K. Munshi (Burma: Non-European): Mr. President, may I inquire from my Honourable friend, Sir Joseph Bhore, whether this amendment has been moved at the instance of the Government of Burma?

The Honourable Sir Joseph Bhore: Sir, I do not quite see how that affects the merits of the amendment. If my Honourable friend has any reason to urge against the merits of it, I shall be very happy to answer any objections that he may put forward.

Mr. Jehangir K. Munshi: The reason why I put this question to the Honourable Member is that it is the cherished aim and ambition of His Excellency Sir Charles Innes, the Governor of Burma, to dismember Burma perpetually into three parts—so-called Burma proper, which remotely corresponds to British India; the Shan States, which are supposed to be governed by the Shan Chiefs, and which correspond to the Indian States, and then comes the third and most amazing part of Burma, the “excluded areas”; up till now, these have been described as “backward tracts”; now they have been promoted to “excluded areas”: and the “excluded areas”, Sir, consist of nearly one-half of Burma! It would be of considerable interest to the House to know that these “excluded areas” contain practically the whole of the mineral wealth of Burma. The “excluded areas”, which so far have been referred to as “backward tracts”, are not within the control—even the partial control—of the Burma Legislative Council; and the constitution outlined by the Prime Minister at the close of the Burma Round Table Conference has threatened to perpetuate the dismemberment of Burma into three parts—the Shan States, which very remotely correspond to the Indian States, the so-called Burma proper which is about one-third of the whole of Burma, and the “excluded areas”, which amount to nearly one-half of Burma. That is the reason, Sir, why I asked my Honourable friend Sir Joseph Bhore whether this amendment has been dictated by the Government of Burma, because I have noticed recently that although other Provincial Governments may address requests to the Government of India, the Government of Burma dictates to the Government of India regardless of the real welfare of the people of Burma. I take it, Sir, from my Honourable friend’s hesitation in answering the question, that this amendment has been moved at the instance of the Government of Burma; and I strongly object to this House lending its support to the principle of dismembering Burma in this manner. (Hear, hear.)

Sir, I am afraid my Honourable friend, Mr. B. Das, when he lent his support to this motion, did not have this aspect of the position clearly before him. This is a matter, Sir, on which Burmans feel acutely. This is a matter on which the Burma Legislative Council also feels strongly, and I see no sufficient reason for going back on the original motion. The original motion permits the Government of Burma to spend the road development money after consulting the Burma Legislative Council; and whether the Burma Legislative Council is or is not allowed to have a say in the administration of the “excluded areas”, there is no reason to suppose that it will be found unreasonable in meeting the Local Government’s demand with regard to a fair apportionment of this money intended for road development in Burma. Although it is extremely difficult to carry any motion against Government in this House, as it is at present constituted, I must voice in this House Burmese national sentiment which strongly resents any effect to dismember Burma and to keep outside the control of the Legislature in Burma nearly two-third of Burma which contains practically the whole of the mineral wealth of Burma. (Applause.)

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I did not move my motion for postponement of the consideration of this Resolution because I thought that it did not refer to any constitutional question at all, and as I heard the Honourable the Mover of the Resolution I thought it was confined merely to the road adjustment fund without any reference to the constitutional questions at stake; but if this Resolution in any way anticipates the future of Burma and its federation, then I shall appeal to you, Sir, that this would be a very contentious and very important question which should not be taken up now. I should like to hear from the Honourable Member who moved it whether that is his intention.

The Honourable Sir Joseph Bhowe: Sir, I shall be very glad to satisfy the doubt which has arisen in the mind of my Honourable friend, Mr. Mitra. I can give him an assurance that there is absolutely no intention of prejudicing in any way and to the slightest degree the constitutional position of the future (Hear, hear). All that this motion does is that it takes account of the existing constitutional position, which makes it impossible under the existing Act and under the existing notifications for this expenditure to be incurred on the Shan States, if the Resolution is not amended. The only result of rejecting this Resolution will be that the Shan States will have to go without the money to which they have a moral right. I hope, Sir, that will put the case in its true light for my Honourable friend's information. (Hear, hear.)

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, after my Honourable friend, Mr. Munshi's speech, one would have thought that a red herring had been drawn across the trail, but after the assurance given by the Honourable Member in charge, I think every apprehension that has been unnecessarily raised has been laid at rest, and I think there should be no difficulty in agreeing to the passing of this motion.

Mr. President: The question is:

"That this Assembly recommends to the Governor General in Council that the Resolution on roads adopted by this Assembly on the 4th February, 1930, be amended by the deletion from clause 5 of the words:

'As an exception to this rule, the amount available for Burma may, for the present be spent on any scheme of road development that is approved by the Local Government with the concurrence of the local Legislature;' and the substitution of the words:

'As an exception to this rule the amount available for Burma shall be apportioned separately in the ratio specified in clause 3 (b) (i) between the Shan States and the remainder of Burma. The amount available may, for the present, be spent on any scheme of road development that is approved, in the case of the Shan States by the Governor after consultation with the Federal Council, and in the case of the remainder of Burma by the Local Government with the concurrence of the local Legislature.'

The motion was adopted.

Mr. President: I understand that the Honourable Member, Sir Abdur Rahim, wishes to make a statement on the South African question. Sir Abdur Rahim.

STATEMENT RE SOUTH AFRICA.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): With your permission, Sir, I wish to make a brief statement of the position on this side of the House with reference to the statement that was made this

morning as regards the South African situation. The Honourable Member who made that statement gave his reasons why the Government was not able to say anything until to-day with reference to what happened between the Delegation of this Government and the South African Government. Sir, we accept that as a good reason, but all that I wish to say is this, that this is a question in which this House is very deeply interested, as is well-known to the Government. If we have not raised any discussion upon the statement that has been made, it is simply because we had not the opportunity of studying what actually happened, what has been actually achieved, and we thought it desirable, in view of the further fact that this is the last day of this session, or practically the last day, that we should have an assurance from the Government that not only full opportunity will be given to us at the next session in Simla to discuss the South African position but also that the Government will watch the course of events and see that nothing is done in the meantime which will prejudice the Indian case. That is the assurance which this side of the House would like to have from the Government.

The Honourable Mian Sir Fazl-i-Husain (Member for Education, Health and Lands): Sir, the Honourable Member has asked for two assurances to be given: one is that a Government day will be given for the discussion of this statement in the Simla session. I have no difficulty whatsoever in assuring the House that if Honourable Members desire in Simla, after having studied the whole matter, that they wish to have a discussion, a Government day shall be provided for the discussion. The second point on which the Honourable Member has desired an assurance is, so far as I have been able to follow him, that nothing shall be done between now and the discussion which will in any way alter matters in South Africa. Have I understood the Honourable Member aright?

Sir Abdur Rahim: I said nothing would be done to prejudice the Indian case and that Government will watch the situation.

The Honourable Mian Sir Fazl-i-Husain: As for watching the situation I can assure him that we will do it very very thoroughly. The position is this, that to-day Dr. Malan has made this very statement in the Houses of Parliament in Cape Town. As mentioned in our statement, the Transvaal Bill has been reintroduced in a modified form and that has to pass through their Parliament. That is their law. I have not the slightest doubt that the Honourable Members feel that the Parliament there has to get through their legislation just as we here have to get through our legislation. As our Agent informs us from time to time whether any amendment is coming on which might prejudice our case, we at once give him instructions to do what he can in making representations to the Member-in-charge. Of course, we have no Indian representative in the Union Parliament and therefore we can do nothing in that way. But I assure him that our Agent there and we ourselves here will keep a very watchful eye on how this legislation progresses and if it is necessary to take any action, we shall have to take that action forthwith. I have no doubt from the assurances received when we were in South Africa, that the amendments that Dr. Malan has told us he has incorporated in the Bill will be passed. Yet, it is impossible for any one to say that the Parliament has no right to refuse to pass them just as it would be impossible for me to commit

[Sir Fazl-i-Husain.]

the whole House. All that I can say is that I have assurances from all parts of the House that they will be passed. I think that is about all that any Government can say, and I trust that Honourable Members will find it suitable.

REPORT ON FINANCIAL QUESTIONS ARISING OUT OF THE
PROPOSED SEPARATION OF BURMA FROM INDIA.

The Honourable Sir George Schuster (Finance Member): Sir, I beg to move:

“That the Report by the Standing Finance Committee on financial questions arising out of the proposed separation of Burma from India be taken into consideration”.

Before I say anything in explanation of this motion, I must make some reference to an amendment which is down on the paper to the effect that consideration should be postponed till the Simla session. I wish to make it clear at the outset that we, on this side of the House, are most anxious to meet the wishes of the Honourable Members in this case, and if it is the desire of the House that this discussion should not proceed, or at least that the debate should not be concluded now, but should be adjourned till the Simla session, then, so far as Government are concerned, they will certainly not endeavour to make such a course impossible. But before the House expresses an opinion on this issue, I am bound to explain to them exactly what the position is and why it is that we felt it to be essential to give the House an opportunity to discuss this motion this session. If therefore I speak now at any length on the general subject, I want to make it clear that it is not because I am prejudging the case as to whether the motion is to be postponed or not, but merely because we, on the Government side, feel that the House cannot really be asked to express a view on that issue before we have explained to them exactly what is involved. We regret as much as any Honourable Members opposite can possibly regret that it has not been possible to bring this motion forward earlier in this session. But I would remind Honourable Members that throughout the session we, on this side of the House, have done our best to adapt the proceedings to suit their conveniences so far as it lay with us to have any influence on the matter, and that it really has not been possible to bring this motion forward at any earlier date, after the date on which the Standing Finance Committee completed their Report. On the other hand I might also remind the House that we did give notice of our intention to bring this matter forward some considerable period ago, and therefore it cannot be said that we have sprung it as a surprise at the last moment. Now I wish at this late hour to be as brief as possible; but I feel that in introducing this motion I really must, as shortly as possible, put the issues before the House. In the first place I would remind the House that any consideration of the financial issues at this stage is purely hypothetical. We can merely consider what would be the financial issues or consequences if separation is to take place. No one is asked to commit himself in any way on the issue of separation; and that point has been very clearly brought out by the Standing Finance Committee themselves in their Report. Paragraph 2 of that Report reads as follows:

“In the first place the Committee recorded that its consent to take the memorandum into consideration implied no expression of any views on the merits of the question of separation as such. It merely discussed the financial consequences which would ensue if Burma were separated from India.”

Turning to a second point, I would like to remind the House of what has been the procedure by which we have reached the present position and what that procedure involves for the future. In the first place there were certain recommendations made from India to the Round Table Conference. The Government of Burma themselves suggested a definite procedure for the examination of these financial questions. In paragraph 10 of their letter to the Government of India dated the 13th August, 1930, they said:

"It is believed that by correspondence and negotiation between the two governments it will be possible to reach, not indeed agreement on all points at issue, but an agreed statement of the case, and it is proposed that this agreed statement of the case, or if even this measure of agreement cannot be reached, the views of the two governments, should be laid before a board of neutral or impartial arbitrators."

The Government of India themselves took very much the same view of the situation. The Government of India in paragraph 93 of their constitutional despatch of the 30th September, 1930, wrote as follows:

"It is clear that the separation of the finances of the country will raise extremely difficult issues requiring close expert analysis, in the decision of which it will be essential to hold an even balance between what may be conflicting claims. We agree with the local government that the best method of approaching this difficult problem is to endeavour by mutual cooperation between the Government of India and the Government of Burma to draw up an agreed statement of the case for reference to an impartial tribunal. The subjects requiring settlement will be of a technical nature and would include, besides the normal questions of the adjustment of revenue and expenditure, such matters as the allocation of debt charges and the adjustment of currency arrangements. No constitutional commission can deal satisfactorily with those questions, for its functions would be entirely different, as also its probable methods of inquiry."

So that, both we and the Government of Burma agreed that the best method of dealing with this matter was that the two Governments should endeavour to settle an agreed statement of the case, and that that case should be submitted to an arbitral tribunal. We on our side felt very strongly that the issues involved were so important and that we ourselves were in a somewhat difficult position in arriving at a settlement on points about which it would be impossible for us in all their details to consult the Legislature or to obtain support from public opinion in India; and we therefore felt that it was much to be preferred that the whole matter should as far as possible be decided by an independent arbitral tribunal.

That remains the outstanding feature in the whole situation to-day. From those two despatches which were written before the Round Table Conference assembled, I would turn to the actual recommendations of the Burma Sub-committee of the Round Table Conference. That Sub-Committee practically accepted the recommendations of the Government of India. They said:

"The questions are very difficult and technical and the sub-committee consider that they should be dealt with in the manner recommended by the Government of India in paragraph 93 of their despatch. The sub-committee also recommend that when the case has been thoroughly explored by the experts of the two governments the statements prepared by those experts should be laid before the Standing Finance Committees of the Indian Legislative Assembly and the Burma Legislative Council respectively, and that representatives of these committees should be associated with the experts in the proceedings of the arbitral board."

This is a point to which I would call the special attention of the House,—that the Burma Sub-Committee recommended not only that the experts' statement of the case should be considered by the Standing Finance Committee, but that the two Standing Finance Committees should be actually associated with the proceedings before the arbitral tribunal.

[Sir George Schuster.]

Then lastly in order to make clear exactly what the present position is, I would remind the House of what the Prime Minister said in his speech winding up the Burma Round Table Conference. He said:

"It is on these general lines that His Majesty's Government will be prepared to frame for the approval of Parliament a constitution for Burma separated from India. But the first stage is to ascertain whether the people of Burma endorse the provisional decision that separation should take place. To enable them to take a decision on this matter, they should be aware not only of the general nature of the constitution proposed but also of the financial consequences of separation. The experts' report on the financial problem has already been published. His Majesty's Government will take steps in co-operation with the Government of India and the Government of Burma to press on the consideration of the question to a decision. With this material before them, the people of Burma will be in a position to decide whether or not they are in favour of separation from India. His Majesty's Government consider that the decision might best be taken after a general election in which this particular issue has been placed before the electorate. The life of the present Legislative Council has been extended for a year so that the election must be held before the end of the year."

Now, it is in connection with that that I wish to put to the House the reasons for our considering it necessary to bring forward this motion this session. The House is aware that the Government of Burma will probably hold elections on the lines indicated in the Prime Minister's statement, in October of this year; and they will also appreciate the fact that it is important that when the people of Burma are asked to vote at that election which will be an election for creating a Council which will have to consider the issue of separation,—they will realise that it is most important that the people of Burma should know exactly what the practical consequences of separation will be; and among the most important parts of those practical consequences are the financial consequences. Therefore we feel that if the Government of Burma press us to proceed with the consideration of this financial issue and press also for the setting up of that arbitral tribunal during this Summer, so that its award might be known before the elections in October, we felt that we could not possibly resist: we should indeed be guilty of obstruction if we put ourselves in a position of making it impossible for them to proceed on those lines. Therefore we feel that we may be forced to deal with this financial issue in the course of the Summer months. That being the case, we could not possibly allow this session to close without putting the position before this House. I may inform the House that I took the opportunity of sounding the opinions of members of the Standing Finance Committee on this question, and they all agreed that the Government of India would really be treating the Legislative Assembly in a manner which might be open to serious criticism if they allowed this session to close without bringing this matter forward.

That is the actual position with which we have to deal. I would now remind the House of exactly what has happened on the lines of the procedure which was accepted by the Burma Round Table Conference. Two financial experts, one on behalf of the Government of India and one on behalf of the Government of Burma, were appointed to make a study of the technical issues involved; and the results of that study are embodied in the Report which has been before the House for some time, which we normally refer to now as the Howard-Nixon Report. I would remind the House in that connection that this Report does not purport to be anything more than a statement of the case. It is true that the two financial experts, in their desire to clear the ground as far as possible of controversial issues, went so far as to reach what they have described as an agreement

between themselves on certain issues. But the actual position is that so far as the Government of India are concerned, they are not in the least bound by anything which Mr. Nixon has said or recommended in that Report. The issues on all the points are still entirely open. That Report, I think Honourable Members will agree, is a very clear and I might say, a very excellent Report, and it really does state the issues in a way which under each head brings home exactly what is involved. Following out the procedure recommended by the Round Table Conference, we submitted that Report for consideration by the Standing Finance Committee, and the Standing Finance Committee has submitted its own Report upon it. Those are the documents which are before the House in the matter, and I think that any one who has found time to read those documents will feel that at least the issues are clearly stated.

Now, Sir, the real question is, how far this House wishes to express views now on this question, and I think it might be of value to consider in what way such views could be expressed. Honourable Members can of course, if they so desire, criticise the whole plan of procedure, but I do not really see how any reasonable man could do that. If the basic idea is accepted,—and I believe it is accepted by the Indian public,—that if Burma wants separation, then India should not stand in the way, I find it impossible to imagine a fairer method of procedure than the submission of the financial issues to an absolutely impartial arbitral tribunal. Anyhow, that particular proposal has been before the country since the publication of the Government of India's despatch in 1930, and I personally have not seen any criticism of it. So I think we may fairly take it that, as far as the general procedure is concerned, there is not likely to be any criticism of that.

The second possibility is that Honourable Members might have views to express as to the nature of the arbitral tribunal. If they have, and if this debate should proceed, I can give the House an assurance that we should convey such views to His Majesty's Government to whom we will submit a report of this debate.

Again, as a third possibility, views might be expressed as to the method in which Indian interests should be represented before the tribunal. As to this, we have a definite recommendation already before us made by the Round Table Conference, a recommendation to which I have already referred, that the Members of the Standing Finance Committee should actually be associated with the Government of India's representatives in arguing the case before the tribunal. This again is a suggestion which has been before the public for a long time, and again I have not seen any criticism of it. I think therefore that, I may take it, that this also is accepted as a suitable suggestion by Indian public opinion.

Then as a fourth and last possibility, Honourable Members may wish to express views as to the actual technical issues involved. Here they would have, as I have already said, to guide them the Howard-Nixon Report and the Report of their own Standing Finance Committee. I may remind them again, as I have already done, that the views expressed by Mr. Nixon in this Report in no way commit the Government of India, and I would further remind them that the Standing Finance Committee has in some important respects differed from Mr. Nixon's views, and I would say that the Government of India would certainly take account of the Standing Finance Committee's views in arguing the case before the tribunal. Equally the Government of India would take

[Sir George Schuster.]

account of any views that might be expressed in the course of the debate on the floor of this House. It must, however, I think, be generally admitted that, to secure anything like an exhaustive examination of the actual financial issues, which are involved, in the course of a debate in this Assembly would be extremely difficult. The issues are extremely complicated and we should want a very great deal of time to discuss them, and I think every one would agree that an Assembly of this kind is really not a suitable place in which to attempt to thresh out issues of that kind. So, speaking for myself and the Government, we should attach more importance and think it of more practical value if we were to get an expression of opinion on the other three points to which I have referred. In the long run, if the matter is to be handled, as recommended, by an impartial tribunal, India must rely for getting a fair deal, first on the fairness of the tribunal, and secondly on the efficiency with which Indian representatives argue their case before the tribunal, and I doubt if it will be possible to evolve from a debate in this House anything like an intelligible brief on which those representatives could argue their case.

Now, Sir, although I have dwelt on the difficulties of dealing with the technical issues in a debate in this House, I think it would be right for me just to call the attention of the House to what are the main points involved in those issues. One may say that points on which discussion would have to concentrate may be divided under five heads. There is, first of all, the question of currency, then the question of pensions, then the question of military burdens, fourthly the question of debt, and lastly the consequences on the revenue position of the two countries—though these last are not so much matters for argument as calculations of what will be the result of the settlement on the other four heads.

Now, as regards currency, the question is indeed a very technical one. Honourable Members will find that the subject has been fully reviewed in the Howard-Nixon Report, and that the reporters have considered what should be the conditions which the Government should accept, whichever of the two possible alternatives are adopted,—the two possible alternatives being either firstly that Burma should continue to use Indian currency, or secondly that Burma should decide to create a separate currency system of her own. The Standing Finance Committee in paragraph 4 of their Report have made some observations on this question, and I think they may be said to have stiffened up the directions which would be given to the representatives of the Government of India in arguing the case. Undoubtedly Government will press the point of view embodied in paragraph 4 of the Standing Finance Committee's Report.

Then we come secondly to the question of pensions. That is the biggest point at issue between the representatives of the two Governments. Mr. Nixon on behalf of the Government of India took up an entirely different position to that which Sir Henry Howard on behalf of Burma found it necessary to take up, and there is a great deal of money, involved in that particular point. Very briefly, I might put the issue in this way, that Mr. Nixon considered that the Government of Burma should bear a proportionate part of the Government of India's charges in respect of all pensions which had been already earned. Sir Henry Howard thought that Burma should only bear the actual burden of pensions earned

in respect of actual service in Burma. The financial difference involved in that part of the issue is this, that according to Mr. Nixon's calculation which would make Burma bear about 10½ per cent. of the total charges, Burma would pay annuities for a period of 15 years, at a gradually decreasing rate, starting with a payment of 105 lakhs per annum, whereas according to Sir Henry Howard's plan, the initial payment would be only 35 lakhs per annum.

That concerns pensions which have already been earned. There is another possible controversial point as regards Burma's share of part-earned pensions. There if we adopt the principle advocated by Mr. Nixon in respect of pensions which have already been wholly earned, we should stand on the same ground and say that Burma ought to bear 10½ per cent. of the value of the part-earned pensions at the time of separation, and Mr. Nixon has calculated that the capitalised value of those pensions would be something in the neighbourhood of 4½ to 5½ crores of rupees,—that is to say, Burma share in the capitalised value would be that amount. Mr. Nixon has taken the line that Burma might have a reasonable counter-claim against that payment in respect of their share of what I may describe as "unproductive assets". I do not want to go into details on that matter. I am merely referring to it now because that is another point in regard to which the Standing Finance Committee has thought that the advocates of the Government of India's case might take up rather a stiffer line than Mr. Nixon himself had recommended. But I wish to impress upon the House that the allocation of the pensions burden is perhaps the biggest point at issue between the two countries.

Then, as regards military burdens, it is, of course, clear that Burma would have to undertake the actual cost of troops actually employed in Burma. But some members of the Standing Finance Committee have raised a wider issue. They contemplate that the Government's representatives might at least claim some general contribution from Burma on account of the general services of defence which India will render. That is an extremely difficult issue, and I should not like to say more now than that we will see that that point of view is put before the arbitral tribunal.

Then, we come to the question of debt. There Mr. Nixon has taken the line that in attempting to evaluate the debt by the historical method of approach, that is to say, by going back over the whole of the past history and trying to separate out those items of the public debt of India which could be said to have been incurred on behalf of Burma—Mr. Nixon has taken the view that the historical method of approach would be impossible; that in fact, it would be impossible to arrive at a practical result by this method. He has suggested another and much simpler line of dealing with the debt question. He said in the first place that so far as Burma takes over the actual productive assets she should take over the corresponding debt against those assets. That I imagine is a clear proposition to which every one would assent. He then goes on to suggest that as regards that portion of the public debt of India which is not covered by productive assets, Burma should take over a proportion representing Burma's share in the general revenues—both what are now central and provincial—representing Burma's share in the general total revenues of India. That would be a 10½ per cent. share in the so-called unproductive debt, and that would be the same percentage which Mr. Nixon has applied in the case of the pension liability with which

[Sir George Schuster.]

I have already dealt. On that basis the total amount of debt which Burma would take over was at the time when this Report was compiled about 62 crores, and it would be now on the latest figures about Rs. 66½ crores.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Do the pensions include military pensions also?

The Honourable Sir George Schuster: I am now talking about debt. Pensions would of course apply to military pensions also.

On that point there may be room for differences of opinion. Some of the members of the Standing Finance Committee have recorded a dissentient note in which they say that they are not satisfied that the historical method of approach is impossible, and they wish the Government of India to attempt to follow up that method. I imagine they consider that by following up the historical method of approach India would be able to establish a much higher claim than under the method which Mr. Nixon has suggested. I wish to leave the House in no doubt as to what is my own opinion on that matter, and that is, that it would be in practice impossible to establish a satisfactory claim based on the historical method of approach, and I consider that the Indian representatives would be well advised not to attempt to base their claim on arguments of that kind. But, Sir, we must preserve an open mind on this question, and if the representatives of the Standing Finance Committee are to be associated with the Government of India in arguing India's case, then clearly they will have a right to put forward their point of view. I imagine that if we proceed on those lines, there will be many opportunities for preliminary consultation before the arbitration actually starts, and in that case I believe that on further study of the matter, those who now hold the view that the historical method of approach would be possible will be convinced that what we have suggested is the best method. But for the present I confine myself to stating what our view is and I assure the House that the view which some of their representatives have put forward in the Report of the Standing Finance Committee will receive full consideration.

I have now dealt with the four heads of currency, pensions, military burdens and debt, and the fifth head remains,—the consequences of the revenue position. There, according to the figures of 1929-30 on the basis of which Sir Henry Howard and Mr. Nixon made their Report, they worked out that India would on balance be worse off by a sum ranging between 2½ crores and 3½ crores after the separation. The difference between those two figures is really the difference between the alternative methods of dealing with the pension question. That, as a matter of fact, presents the position from our point of view rather worse than it really would be, because if Burma were separated and Burma took over 66 to 70 crores of rupees of India's debt, the provision for reduction and avoidance of debt which we are now making would be reduced proportionately and we should save Rs. 80 lakhs or so under that. The amount of that reduction, whatever it may be, should be taken off the figure of the financial loss in India, namely of the figure between 2½ crores and 3½ crores to which I have already referred. I refrain from giving an exact figure because it would depend on what the amount of the debt was at the time of separation.

That, Sir, very briefly puts before the House what are the main issues involved in this question. Before I conclude, I would like to read to the House one passage from the report of the Burma Sub-Committee of the Round Table Conference which stresses a point which it is important to bear in mind in dealing with this whole question. The Sub-Committee report as follows :

“The Sub-Committee also endorse the view expressed by the Government of India in paragraph 82 of their despatch regarding the great desirability of adjusting the relations between the two countries in a spirit of reason and mutual accommodation so as to avoid as far as possible the ill effects which might arise from so great a change in long established practice”.

Now, the point that I want to make is, that in considering the separation of Burma from India, if it is to take place, we should be concerned not only with adjusting matters like our financial relations; we should be concerned with trade agreements and various other matters which will affect the future relations of the two countries, and if the House were to consider now what instructions they would wish to give to their own representatives in arguing the case before the arbitral tribunal, I should trust that they would instruct them somewhat on the lines of the passage which I have just read out. We feel on this side it is most important that this matter should be approached in a spirit of fairness and in a spirit of give and take. It is perfectly possible to argue the case on theoretical grounds and take a so-called firm line and refuse to give way on every single detail; but we are dealing with a very difficult relation, the separation of a large area which has hitherto been treated as a single and indivisible part of the greater whole from which it is being separated, and if we try to be too strict and technical in our methods, I am afraid we may do harm to the future relations between the two countries. Clearly we in the Government of India would instruct our representatives to make the very most of the case. We must be fair to the Indian taxpayers, but I think it is important to put this point because I think it will perhaps help the House to deal with this matter now, if the general feeling is that the matter should be dealt with in a spirit of fairness and give and take. For on that understanding it would become less necessary to give absolutely precise instructions on every point. Therefore, I would wind up by saying this to the House, that the House is not being asked now, if it considers this motion, to express any views on what is or is not a fair settlement. It would be asked to accept the principle that the matter shall be decided by an impartial tribunal and the most that it could do would be to give general instructions to the Government of India as to how they were to argue their case before that tribunal. If the House takes that view and if the House also remembers a feature in the procedure to which I have already several times called attention that according to the recommendations of the Round Table Conference, members of the Standing Finance Committee will be associated with the proceedings, I think, Sir, they may perhaps agree that to have had the matter brought forward in this way at the final stages of this session has not put them into a really embarrassing position, and that they can fairly accept that position after a very short debate.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I move that the consideration of this motion be postponed till the next Simla Session. I shall confine my speech to the narrow issue about postponement. It is admitted beyond all controversy that this is

[Mr. S. C. Mitra.]

a very important matter and it is clear that it is also contentious, because the Standing Finance Committee was not unanimous. So far as I know, Mr. Aggarwal, Diwan Bahadur Harbilas Sarda and my friend Mr. Gaya Prasad Singh, who is unfortunately absent to-day, have all submitted dissentient notes. I am grateful to the Honourable the Finance Member that he has left it to the decision of the non-official Members whether the consideration should be postponed. The only point that he argued in favour of the consideration at present is that the Burma Local Council will be asked to come to a decision about separation in August, both on financial and political grounds. In this Report we have the views of two experts from the British India side and also from the Burma side. I think we will be prejudicing the issue rather than helping it if this House now goes into a detailed criticism of the particular items for financial settlement. I think the House will be well advised to wait and see what the Burma Legislature decides, and there is no urgency why the House should be asked to come to a decision at present. Sir, I move.

Mr. Jehangir K. Munshi (Burma: Non-European): Mr. President, I rise to support my Honourable friend Mr. S. C. Mitra's amendment that consideration of this motion be postponed to the Simla Session. My first concern is the interest of the province of Burma which I represent in this House; and at the outset I would like to express my gratitude and the gratitude of the province of Burma to my Honourable friend Sir George Schuster on the fair attitude that he has displayed in the course of the debate to-day. He has shown that, so far as he is concerned, he will adopt a fair and reasonable attitude towards my province; and my concern on this question of financial adjustment is the interest of my province and my province alone. Whether the Honourable the Finance Member's attitude pleases all the other sections of the House or not is a matter with which I am not concerned.

Sir, I am at present labouring under a severe handicap, as the official nominated Member from Burma, Mr. R. R. Brown, has gone to England. He naturally would have, if the necessity arose in this House, put the case of the Government of Burma. Then the European representative from Burma, Mr. John Tait, has also gone to England, and he is better qualified to speak on the technical financial aspects of this question than I am; and furthermore my two Burman colleagues are not here; U. Kyaw Myint has gone back to Burma and U Tun Aung has not been able to attend this session; and I shall find it extremely difficult to shoulder the sole responsibility of tackling this important and difficult question in this House if the debate assumes a technical aspect. So, I support the amendment moved by my Honourable friend Mr. S. C. Mitra mainly on the ground that I have not the assistance and the benefit of the presence of my four colleagues from Burma.

Furthermore, the Burma Legislative Council has not so far had an opportunity of expressing its opinion one way or other on this important question. As a matter of fact, although the question has been before the public for some time, sufficient attention has not been devoted to it in Burma, and I have not been able to ascertain the points which my constituency would like to urge on this important question.

As regards the motion itself, I wish to mention briefly, just one point; Mr. Nixon has been blamed by a certain Indian critic and the charge against him is that he has made Burma a gift of something like 50 crores of rupees. Mr. Nixon is quite capable of looking after himself; but as far as my province is concerned, I emphatically repudiate any suggestion that the Howard-Nixon Report gives more to Burma than should have been given. As a matter of fact, representing my province's standpoint, I really must regard Mr. Nixon as a Shylock who has been too hard on my province. (Laughter.) At this stage I do not propose to say anything more on the motion itself, and I do ask the House to help me by supporting my Honourable friend Mr. Mitra's amendment for postponement of the discussion on this motion to the Simla Session. (Applause.)

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I support this motion; and my chief ground for supporting it is that the demands that we have put forward before Burma are rather too small. They have not calculated in this report the amount which we spent on Burma out of our revenue expenditure from year to year. Of course that is the way in which we can calculate it over a series of past years. We have been pressing this all this time, and until this is done I do not know whether we can actually calculate the amount which we have been spending out of our revenue during the last so many years. The second point which we have not thoroughly calculated concerns the military expenditure. We must have a fair share from Burma in connection with all the military expenditure that we have been incurring all these years, and this calculation has not yet been done. The third point is that it is also desirable that we should have some kind of fiscal relationship between Burma and India, and this is a very important point; that is, that if we have these customs barriers between these two countries just as they are having between the smaller countries of Central Europe, then it will be to the mutual disadvantage of both. This is a point which ought to have been considered. I take this opportunity, when we are saying good-bye to the Honourable the Leader of this House and when he is now going to represent us at the Ottawa Conference, of suggesting to him that one point which he may remember is that if we consider every country to be a single unit, then the problem of customs will become very complicated. Customs may be looked upon from two points of view,—either as a measure of protection of industry to a country, or as a revenue-yielding proposition. For protection levying customs duty is all right, but if you consider it as a revenue-yielding proposition, then you will have to consider the desirability of having a much larger unit. I would of course very much like to have the whole world as a single unit . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Honourable Member is going into the merits, and it is very nearly 5 o'clock. I should like to know whether the House desires to discuss not only the motion for the adjournment of the debate but to go into the merits of the whole question which has been put before the House by the Honourable the Finance Member. In that case the Chair will adjourn the House till to-morrow.

Dr. Ziauddin Ahmad: I shall finish in one minute, Sir

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I do not want the Honourable Member to finish: if the House decides to go into the merits of the case, then the debate cannot obviously be finished to-day. But if the House generally agrees to postpone consideration till the Simla Session, then we can finish to-day. The Chair wishes to know—it is nearly 5 o'clock now—as to what the wishes of the House are.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): We want the discussion to be postponed to the Simla Session.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, everybody directly or indirectly wants to discuss the merits of the case, but there can be no real discussion now?

The Honourable Sir George Rainy (Leader of the House): Sir, if the House is really anxious for an immediate decision, I suggest that some Member might move the closure.

An Honourable Member: I move that the question be now put.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair cannot accept the closure because there has not been a fair debate. The Chair wishes to know what the general feeling in the House is.

Sir Abdur Rahim: Sir, if the Government are going to oppose this motion for postponement, then we should like to debate it. But if the Government accept the motion, then there is no difficulty.

The Honourable Sir George Schuster: I made it quite clear, Sir, that the Government certainly would not oppose a motion for postponement; but at the same time in making that clear I tried to make the House understand what might have to be done in the course of the Summer and what is involved in refusing to discuss the matter now. We put ourselves entirely in the hands of the House in the matter.

5 P.M.

Mr. Muhammad Yamin Khan: Whatever, Sir, has been said up to now has not made it very clear as to why exactly it should be postponed. Of course some Honourable Members have raised the plea that they have not studied the question properly. That may be good ground. I find of course that there are certain Members who have not yet studied this question thoroughly and are very anxious to postpone consideration; but unless we find that there is something more which can be said on the point, we can decide one way or the other.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable the Finance Member has made his position quite clear, which is that he welcomes a full discussion either to-day or tomorrow, if the House desires to discuss this matter. If, however, a postponement is decided upon, then I understood the Honourable the Finance Member to say that Government intend to proceed during the Summer months with the appointment of arbitrators. Is that the position?

The Honourable Sir George Schuster: The point is, Sir, that we may be forced to a particular course: it is not for us to decide, it is for His Majesty's Government to decide.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): I would suggest, Sir, that it is much better to proceed with the discussion, because the object of any such adjournment will also be served.

Sir Abdur Rahim: I think, Sir, that the motion ought to be discussed, especially as the Honourable the Finance Member says that the Government will go on with the appointment of arbitrators,—whether the whole question should not be postponed till the September Session?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): If that is the Government's position, the Chair will adjourn the House till Eleven of the Clock tomorrow. If the Government's position is that the *status quo* will be maintained and that nothing will be done in the meantime till the House discusses it at the next Simla session, then I take it that the House wishes to postpone it. If Government intend to proceed with measures of arbitration and otherwise, by which the country might be committed to certain things, then the non-official section of the House desires a discussion immediately. It is for Government to decide what course they wish to be adopted.

The Honourable Sir George Schuster: I think I made it quite clear, Sir, that the power of settling this matter does not rest with us. If we could meet the wishes of the House, we should be very glad to maintain the *status quo* and let this matter rest over till September; but His Majesty's Government are anxious that the financial issue should be cleared up before the elections take place in Burma for the new Council which will have to decide the separation issue. I am not in a position to say whether arbitration will actually be set on foot before September, but I have thought it right to tell the House that it is quite possible that that might be the case and we should have no power to stop it. That is our position.

Mr. President: I take it that the House wishes to discuss the subject and the Chair will have to adjourn the meeting till 11 o'clock tomorrow.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 6th April, 1932.