

16th September 1937

# THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

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Volume V, 1937

*(2nd September to 17th September, 1937)*

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## SIXTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1937



PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI.  
PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, SIMLA.  
1938.

# Legislative Assembly.

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THE HONOURABLE SIR ABDUR RAHIM, K.C.S.I.

## *Deputy President :*

MR. AKHIL CHANDRA DATTA, M.L.A.

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MR. S. SATYAMURTI, M.L.A.

SIR LESLIE HUDSON, M.L.A.

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CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

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MR. M. S. ANEY, M.L.A.

MR. M. GHIASUDDIN, M.L.A.

MR. MATHURADAS VISSANJI, M.L.A.

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# LEGISLATIVE ASSEMBLY.

Thursday, 16th September, 1937.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

## STARRED QUESTIONS AND ANSWERS.

### (a) ORAL ANSWERS.

#### AIR-CONDITIONED COACHES ON RAILWAYS.

555. **\*Mr. Sri Prakasa :** (a) Will the Honourable Member for Commerce and Railways state whether Government are aware that during his recent visit to the Malaya Peninsula, Mr. Jawaharlal Nehru, the President of the Indian National Congress, was given by his hosts air-conditioned coaches to travel in and that he caught bad colds from time to time resulting in his speeches being punctuated with sneezes ?

(b) In view of the more extreme climate of India than that of the Malaya Peninsula, do Government propose to consult proper medical authorities and make sure that the proposed air-conditioned coaches will not endanger the health of passengers while attempting to afford them additional comfort ?

(c) Will Government make it incumbent that such coaches are only to be used by such passengers as are making a whole day journey and are not alighting anyway *en route* in the middle of a hot day ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) Government have no information.

(b) Proper medical authorities have been consulted and Government have no reason to apprehend any such danger to the health of the passengers.

(c) Government do not consider this is necessary.

**Mr. Sri Prakasa :** In view of the fact that I am giving the information in part (a) will the Honourable Member once more consult his medical advisers and save the valuable lives of first class passengers and the even more valuable money of the third class passengers at whose expense these coaches have been built ?

**The Honourable Sir Saiyid Sultan Ahmad :** We have made such inquiry as is possible and Government do not consider that further medical advice is necessary.

**Mr. Sri Prakasa :** With reference to part (c) of the question, where is the difficulty in reserving these coaches for persons who travel for not less than a whole day ?

( 1767 )

**The Honourable Sir Saiyid Sultan Ahmad :** There is no difficulty about it, but if the passengers want to make use of these air-conditioned coaches, they should be allowed to do so, even if they travel only a few hours and short distance.

**Mr. Kuladhar Chaliha :** What is the cost of each air-conditioned coach ?

**The Honourable Sir Saiyid Sultan Ahmad :** The answer has been given before.

**BLACK COATS AND RED TIES SUPPLIED TO TRAVELLING TICKET EXAMINERS  
ON THE EAST INDIAN RAILWAY.**

556. **\*Mr. Sri Prakasa :** (a) Will the Honourable Member for Commerce and Railways state whether it is a fact that Travelling Ticket Examiners on the East Indian Railway are given black coats and red ties as their uniforms when on duty ?

(b) Is it not a fact that black absorbs heat and persons concerned feel very uncomfortable as they do their duty walking on platforms on hot days ?

(c) Are Government prepared to consider the desirability of changing the colour of the coat and also of giving a quieter colour than blazing red for the ties of railway servants ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) Yes.

(b) and (c). I am forwarding a copy of the question to the Agent, East Indian Railway, for such action as he may consider necessary.

**Mr. Sri Prakasa :** With reference to the Honourable Member's reply to part (a), may I hope that the choice of the colours is not due to any influence of Communism or Fascism ?

†557\*.

**Mr. Sri Prakasa :** I do not propose to ask question No. 557. I have received an apology from the Agent of the Railway.

†558\*.

**ACCELERATION OF SPEED OF RAILWAY TRAINS.**

559. **\*Mr. S. Satyamurti :** Will the Honourable Member for Commerce and Railways be pleased to state :

(a) whether experiments for accelerating speed of all trains are being made on Indian Railway lines, and if so, where ;

(b) the results thereof ; and

(c) whether Government will take steps both on their Railways and on Company-managed Railways to speed up their trains with a view partially to meet the road competition ?

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†This question was not asked by the questioner.

†For this question and the reply thereto, see page 1797 of these debates.

**The Honourable Sir Saiyid Sultan Ahmad :** (a) Experiments are being conducted to ascertain stresses set up in rails and fishplates under varying axle-loads and speeds. If the results show that these stresses are appreciably less than hitherto calculated, the question of increasing the existing permissible axle-loads and speeds will be considered. There are a few sections, however, on which track considerations actually limit speed, and the experiments which are now being undertaken will not, in consequence, result in any general speeding up of trains.

(b) It would be premature to draw conclusions from the results so far obtained from these experiments.

(c) All railways have been asked to consider the possibility of increasing the speed of trains in pursuance of the recommendations contained in the Wedgwood Report and their reports will be awaited.

**Mr. Lalchand Navalrai :** Sir, .....

**Mr. S. Satyamurti :** Let me have my chance first. This is my question

**Mr. Lalchand Navalrai :** You don't give others a chance.

**Mr. S. Satyamurti :** You don't deserve it.

**Mr. M. S. Aney :** The Honourable Member said that Mr. Lalchand Navalrai did not deserve a chance to put supplementary questions. He should not have used those words.

**Mr. S. Satyamurti :** Are these experiments being made on all State and Company-managed Railways ?

**The Honourable Sir Saiyid Sultan Ahmad :** If my Honourable friend will kindly give me notice of that, I will find out whether these experiments are being carried on in all railways or only particular railways.

**Mr. Lalchand Navalrai :** May I know from the Honourable Member on which railways these experiments are being carried on. I want to know particularly about the North Western Railway ?

**The Honourable Sir Saiyid Sultan Ahmad :** I have answered it already. If a question is put down, I shall find it out.

**Mr. Sri Prakasa :** In accelerating the speed of the trains, will the Honourable Member make sure that he does not so accelerate it that the passengers will never reach their destination at all ? (Laughter.)

#### STANDARDISATION OF RAILWAY STOCK.

560. **\*Mr. S. Satyamurti :** (a) Will the Honourable Member for Commerce and Railways be pleased to state the subjects which were discussed at the recent Conference of Mechanical Engineers of various Railways for the standardisation of Railway stock ?

(b) What important stocks have so far been standardised and what economies have been effected thereby ?

(c) Whether the Railway Board have a definite programme of standardisation with a view to economy and if so, what the programme is ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) The standardization of coaching body layouts and fittings, and the design of lighter coaching stock.

(b) Locomotives, coaching underframes, body parts and fittings, wagons, bridge girders, platform roofs, points and crossings, metal sleepers, interlocking equipment and material specifications. Figures showing the economies which have been effected are not available at present, but the advantages which accrue from standardization are :

(i) Avoidance of unnecessary duplication in the preparation of designs.

(ii) Reduction in cost which results from the manufacture of standard parts in quantity.

(iii) Interchangeability of parts which facilitates replacement and reduction in stores balances.

(c) The programme of standardization embraces all items of railway equipment used in sufficient quantities to warrant the preparation of standard designs and specifications.

**Mr. S. Satyamurti :** May I know if one of the objects of standardization is or is not economy in expenditure, and if so, whether any figures (I am not asking for them now) are being maintained by the Railway Board, in order to calculate the amount of economies resulting from such standardisation ?

**The Honourable Sir Saiyid Sultan Ahmad :** Economy is one of the considerations undoubtedly and is the main consideration. I am not sure whether figures are being maintained but I can find out.

**Mr. S. Satyamurti :** The Honourable Member can give the information later on. I am asking whether any figures or any other tests are being maintained by the Railway Board, in order to see whether this standardisation is actually resulting in economy.

**The Honourable Sir Saiyid Sultan Ahmad :** We shall certainly look into that.

**Mr. S. Satyamurti :** May I know whether, in this standardisation, the object of getting these railway parts manufactured more and more in this country is also being kept in view ?

**The Honourable Sir Saiyid Sultan Ahmad :** That policy is observed.

#### PROTECTION TO THE GLASS INDUSTRY.

561. **\*Mr. S. Satyamurti :** Will the Honourable Member for Commerce and Railways be pleased to state :

(a) whether his attention has been drawn to an article entitled " Indian Glass Industry—Need for immediate help " published in the *Hindu* of Friday, the 16th July ;

(b) the reasons for the delay on the part of Government in dealing with this question ;

(c) whether Government are aware that there is now an abundant supply of a partial substitute for soda ash in India and

that the indigenous industry need not rely on particularly soda ash to a great extent ; and

- (d) whether Government propose to grant immediate protection to the industry ; and if not, why not ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) Yes, Sir.

(b) I would invite the Honourable Member's attention to the Government of India, Department of Commerce Resolution No. 458-T. (14), dated the 22nd June, 1935, and to the answers given to Mr. Muthuranga Mudaliar's question No. 481 and the connected supplementary question on the 13th September.

(c) Dr. Dubey and Mr. Agarwala, whose researches were recently published by the Industrial Research Bureau, have given their view that a highly coloured glass can be made by the use of nepheline syenite rock, but that it is not possible to obtain colourless glass by the use of this rock in its natural form. In order to obtain colourless glass, it will be essential to remove the ferro-magnesium mineral from the rock.

(d) The discovery mentioned above has not yet been commercially exploited, and, therefore, affords no ground for considering the immediate grant of protection to the industry.

**Mr. S. Satyamurti :** As regards the answer to clause (d) of the question, I think my Honourable friend said that a discovery has been made on a scientific basis but its commercial possibilities have not been exploited. May I know whether any attempt is being made by the Government or to the knowledge of the Government if it can be done on a commercial scale on the basis of any experiment which may be carried on just now ?

**The Honourable Sir Saiyid Sultan Ahmad :** It is not being done by the Government, but Government will be very pleased if it is exploited by any private company. We will then see whether it will be possible commercially to give it protection.

**Mr. S. Satyamurti :** In view of the fact that a large amount of glassware is imported into this country from small countries in Europe, will Government expedite coming to a conclusion on this matter ?

**The Honourable Sir Saiyid Sultan Ahmad :** Certainly.

**Mr. Mohan Lal Saksena :** May I ask whether the questionnaire of the Government on this subject was laid on the table of the House ?

**The Honourable Sir Saiyid Sultan Ahmad :** It is being laid on the table now.

**Mr. T. S. Avinashilingam Chettiar :** In view of the Government's promise to review this question, may I ask whether they have gone into the matter and what are their conclusions ?

**The Honourable Sir Saiyid Sultan Ahmad :** We have not yet arrived at any conclusion.

**Mr. T. S. Avinashilingam Chettiar :** May I ask when do they propose to review it again ?

**The Honourable Sir Saiyid Sultan Ahmad :** After the replies have been received to the questionnaire of the Special Officer,

**RESERVATION OF COASTAL TRADE FOR INDIA AND BUILDING UP OF AN INDIAN MERCANTILE MARINE.**

562. **\*Mr. S. Satyamurti** : Will the Honourable Member for Commerce and Railways be pleased to state :

- (a) whether his attention has been drawn to an article entitled ' Indian Navy and Marine ' in the *Amrita Bazar Patrika* of the 19th of July, 1937 ;
- (b) whether Government are taking or proposed to take any steps to reserve the coastal trade or at least a portion of it for India and to build up an Indian Mercantile Marine ; and
- (c) if so, what they are, and if not, why not ?

**The Honourable Sir Saiyid Sultan Ahmad** : (a) Government have seen the article referred to.

(b) I would refer the Honourable Member to the replies given by me on the 31st August, 1937, to parts (b) and (c) of his starred question No. 214.

(c) The Government of India do not consider that the proper method of encouraging the growth of the Indian mercantile marine is by means of reservation. But they have taken other steps in this direction, in regard to which I would invite the Honourable Member's attention to the reply given by Sir Muhammad Zafrulla Khan to his supplementary question asked on the 5th February, 1936, in connection with his starred question No. 75.

**Mr. S. Satyamurti** : With reference to the answer to clause (b) of the question, may I take it that the present answer means that Government are not in favour even of the agreement known as the Bhoze Agreement, according to which a certain portion of the coastal trade has been reserved for Indians ?

**The Honourable Sir Saiyid Sultan Ahmad** : We stand by that Award.

**Mr. S. Satyamurti** : May I take it that the answer means that they propose to go no further than that, in the matter of the reservation of the coastal shipping in India ?

**The Honourable Sir Saiyid Sultan Ahmad** : At present that is the position.

**Mr. S. Satyamurti** : May I know the reasons why the Government have come to this conclusion ? Have they come to this conclusion, because they think that reservation is a failure, or do they think that there are other methods open to Indians to get a larger share of coastal shipping than by reservation ?

**The Honourable Sir Saiyid Sultan Ahmad** : The present method has worked out quite satisfactorily.

**Mr. S. Satyamurti** : If that is so, may I know the reasons why the Government do not propose to go further in that direction ? It is admitted that the the present reservation is a very small one. May I know the reasons why Government do not propose to go further in that direction, and get a larger reservation of the entire trade for Indian shipping ?

**The Honourable Sir Saiyid Sultan Ahmad :** That is hardly a question which arises from my answer or comes out of the question that has been put. What has been done has already been referred to in the reply which was given by Sir Muhammad Zafrullah Khan and to which I also referred in my reply which I gave a few days ago.

**Mr. S. Satyamurti :** My Honourable friend said in answer to my question that Government do not propose to pursue the policy of reservation of coastal trade for Indians. I asked him further whether that means that they do not propose to go further in the direction of the Bhoze Agreement. My Honourable friend said No. I am now asking the reasons why the Government do not propose to go further in the direction of the reservation of a larger share of the entire coastal trade of India.

**The Honourable Sir Saiyid Sultan Ahmad :** We will do that when the occasion for it arises and when we consider that it is possible to do so.

**Mr. S. Satyamurti :** Therefore, may I take it that the answer is that the Government have not given up their attempt to secure a larger portion of the coastal trade of India for Indians by means of reservation ?

**The Honourable Sir Saiyid Sultan Ahmad :** Under Bhoze's Award reservation was given with respect to the West coast and that has secured for Indian shipping about 85 per cent. of the coastal trade. Then we had also the complete Indianisation of the Pilot Service. Then, the House will remember that under our good offices the Scindia Steam Navigation Company got about 100,000 tons instead of 60,000 tons as before. Then, we have now extended the training on the "Dufferin" for engineering also. These are the steps that we have taken and we will not fail in our duty to encourage and develop the Indian Mercantile Marine as much as we can.

**Mr. S. Satyamurti :** May I know whether Government will go forward on the principle of getting more and more of the coastal trade in India besides the West coast, reserved for Indians ?

**The Honourable Sir Saiyid Sultan Ahmad :** I am very sorry I cannot go beyond the answer I have already given.

**Mr. K. Santhanam :** May I know whether Government are taking any steps to promote ship building in India ?

**The Honourable Sir Saiyid Sultan Ahmad :** That does not arise from the question.

**Mr. K. Santhanam :** It is one of the recommendations of the Mercantile Marine Committee report to promote ship building in order to promote coastal shipping and it is also one of the conditions of the development of an Indian Mercantile Marine.

**Mr. President (The Honourable Sir Abdur Rahim) :** It is a big question.

**Mr. K. Santhanam :** I am asking whether they have taken any steps to promote ship building in India ?

**The Honourable Sir Saiyid Sultan Ahmad :** I am not prepared to answer this question.



**SUGGESTION FOR THE ESTABLISHMENT OF A WORLD ECONOMIC ORGANISATION FOR SOLVING PROBLEMS AFFECTING HUMANITY.**

563. \***Mr. S. Satyamurti** : Will the Honourable Member for Commerce and Railways be pleased to state :

- (a) whether his attention has been drawn to the suggestion made by the King of the Belgians in a letter to Mr. Van Zeeland, dated Brussels, July 21, in which he suggests the establishment of an independent world economic organisation with a view to solving the great problems which immensely affect humanity ;
- (b) whether Government of India propose to take any action in the matter ; and
- (c) if so, what, and if not, why not ?

**The Honourable Sir Saiyid Sultan Ahmad** : (a) I have seen the text of the letter as published in the Press.

(b) and (c). This particular proposal has not yet reached a stage at which India can usefully make any contribution to the discussions. But the Government of India are generally in favour of efforts being made to solve world economic problems by international co-operation, and have already given an indication of this by their participation in the recent Sugar Conference, which has been the most successful attempt for some years at international co-operation in economic matters.

**Mr. S. Satyamurti** : May I know if, in " promoting world trade ", their intention is to commit economic suicide and agree not to export sugar to other countries ?

(No reply.)

+564-565\*.

**CIRCULATION OF BILLS FOR ELICITING OPINIONS THEREON.**

566. \***Mr. Sri Prakasa** : Will the Honourable the Leader of the House state :

- (a) if it is a fact that a large number of opinions on the Insurance Bill were received direct at headquarters and circulated to Members of the Assembly ;
- (b) if it is not a convention that such opinions should only be received through the Provincial Governments except in the case of European Associations ;
- (c) whether an exception was made in the case of the Insurance Bill ; and if so, why ;
- (d) if it is a fact that Messrs. Sturgeon, Husain Imam, Jagadish Prasad and Ashe were permitted to send their opinions direct, besides a large number of insurance associations ;
- (e) if Mr. Husain Imam is not a Member of the Council of State and had the possibility of expressing his opinion when the Bill was before that House ; and if so, why my opinion on

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†For these questions and the replies thereto, see pages 1797—99 of these debates.

the Oaths Amendment Bill was not accepted on the plea that I could express my opinion in the House itself when the Bill came there ;

(f) if it is a fact that when Bills are circulated, District Magistrates are not debarred from sending them for opinion to Members of the Legislature residing within their jurisdiction if they so like ; and that they actually send them to some and not to others ; and

(g) if Government prepared to instruct them either not to send the Bills to any of them or send these to all ?

**The Honourable Sir Nripendra Sircar :** (a) and (d). Yes.

(b) and (c). The Honourable Member is referred to the answer I gave to parts (a) and (b) of his starred question No. 6, on the 23rd August, 1937. The Insurance (Amendment) Bill was not circulated for opinion by the direction of the Legislative Assembly and having regard to the importance of the Bill several opinions, which were received direct by the Government, were printed as a special case and circulated to the Members of the Legislature.

(e) The reasons are explained in the answer given to part (c) above.

(f) In reply to the first part, the Honourable Member is referred to the answer I gave to parts (b) and (d) of his starred question No. 573, on 23rd September, 1936. In regard to the second part, the Government have no information.

(g) The Government are fully satisfied with the existing arrangements.

**Mr. Mohan Lal Saksena :** In view of the fact that a new Deputy Secretary has been appointed, will the Government entrust the work of the circulation of the Bills to the Legislative Assembly Department ?

**The Honourable Sir Nripendra Sircar :** No, Sir.

**Mr. Mohan Lal Saksena :** Why not, Sir ?

**The Honourable Sir Nripendra Sircar :** May I ask why it should be done ?

**Mr. M. S. Aney :** Is the Honourable Member entitled to ask a question like that ? He is there to answer questions.

**Mr. Lalchand Navalrai :** May I know if the Provincial Governments have got any rules for circulating the Bills of the Central Government ? Are there any rules as to whom they should send ?

**The Honourable Sir Nripendra Sircar :** I have no information.

#### PREFERENCE FOR BRITISH SHIPPING IN THE INDO-JAPANESE MARITIME TRADE.

567. **\*Mr. Mathuradas Vissanji :** (a) Will the Honourable Member for Commerce be pleased to state whether Government are aware that the principle that claims of national shipping and its expansion form an important part of a trade agreement which one country desires to make with another country, is recognised by important maritime countries ?

(b) Will the Honourable Member for Commerce state whether Government are aware that Lord Essendon in the House of Commons, Mr. Alexander Shaw at the annual meeting of the Peninsula and Oriental Company and the Chamber of Shipping of Great Britain have urged upon the Government of India and the Secretary of State the necessity of utilising the bargaining power of India with Japan for securing preference for British shipping in the Indo-Japanese maritime trade ?

(c) If the answer to part (b) be in the affirmative, will Government be pleased to state what action they took in connection with such representations ?

(d) Will Government be pleased to state whether the commercial and shipping interests in India have urged upon them the necessity of securing a reasonable share of the Indo-British maritime trade as a part of the proposed Indo-British Trade Agreement during the course of the negotiations that are going on at present for such an agreement ?

(e) If the answer to part (d) be in the affirmative, will Government be pleased to state whether they have communicated the strong feeling of the commercial and shipping interests to their delegate in London, and what action they propose to take in connection with this matter ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) Government are aware that clauses relating to shipping are sometimes included in trade agreements.

(b) Yes.

(c) None. Government have consistently acted on the principle that Indian bargaining power should be used for the furtherance of Indian interests.

(d) Suggestions were made to the Government of India that the present Indo-British trade negotiations should be utilised for securing greater opportunities for Indian shipping.

(e) The Government of India's delegate is fully aware of Indian feeling on the matter.

#### REPRESENTATION OF INDIAN SHIPPING INTEREST AT A SHIPPING CONFERENCE AT TOKIO.

568. **\*Mr. Mathuradas Vissanji :** (a) Will the Honourable Member for Commerce be pleased to state whether Government have seen the report appearing in the issue of the *Times of India* of the 23rd August, 1937, that a Shipping Conference has been convened at Tokio for the purpose of settling, amongst other things, the outstanding questions relating to the competition carried on by the Japanese shipping interests in the Indo-Japanese maritime trade ?

(b) Will the Honourable Member for Commerce be pleased to state whether they have received any official information in regard to the Conference referred to in part (a), as well as in regard to the subjects which may be discussed at that Conference ?

(c) Is the Honourable Member for Commerce aware that invitations have been issued to some of the British Shipping Companies only for attending that Conference with the approval of the Japanese Ministry of Communications ?

(d) If the answer to part (c) be in the affirmative, will the Honourable Member for Commerce be pleased to state whether he proposes to secure an invitation for attendance of Indian shipping interests at that Conference ?

**Mr. Y. N. Sukthankar :** (a) Yes.

(b) No.

(c) No, but presumably invitations could only issue to firms included in the Conference.

(d) No.

**WITHDRAWAL OF THE REPRESENTATIVES OF THE BENGAL NAGPUR RAILWAY UNION FROM THE ENQUIRY HELD BY MR. MUDIE.**

569. **\*Mr. Mohan Lal Saksena :** (a) Will the Honourable Member for Commerce and Railways be pleased to state when Government were informed of the withdrawal of the representatives of the Bengal Nagpur Railway Union from the enquiry held by Mr. Mudie ?

(b) What action, if any, did Government take to clarify the misunderstanding regarding the terms of reference ?

(c) Is it not a fact that Mr. Mudie was appointed at the instance of Mr. V. V. Giri, President of the Bengal Nagpur Railway Union ? What was the scope of the enquiry ?

(d) Did Government approve of Mr. Mudie proceeding with the enquiry in the absence of the Union representatives ? If so, why ?

(e) When did Mr. Mudie submit his report and were any steps taken to get the views of the Bengal Nagpur Railway Union, or any other public body ? If not, why not ?

(f) Did Government take any action on the report ? If so, when and what ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) Government received official intimation about the withdrawal of the representatives of the Bengal Nagpur Railway Indian Labour Union from Mr. Mudie's enquiry about the middle of May last when his report was received.

(b) and (d). Do not arise in view of the reply given by me to part (a) above.

(c) I would refer the Honourable Member to Railway Board's communiqués, dated the 25th March, 1937, and 9th April, 1937, copies of which will be found in the Library of the House.

(e) As already stated Mr. Mudie's report was received about the middle of May last. Government did not consider it necessary to obtain the views of public bodies or the Bengal Nagpur Railway Indian Labour Union on Mr. Mudie's report.

(f) Government generally agreed with the conclusions come to by Mr. Mudie and conveyed their comments to the Agent, Bengal Nagpur Railway, in June last.

**Prof. N. G. Ranga :** Do Government propose to give an opportunity to this House to discuss this report ?

**The Honourable Sir Saiyid Sultan Ahmad :** No, Sir.

**Prof. N. G. Ranga :** Is it not a fact that the Honourable the President expressed a wish the other day and suggested to the Government that they should take an early opportunity of giving a chance for the House to discuss this report ?

**Mr. President (The Honourable Sir Abdur Rahim) :** Will the Honourable Member give exact reference to the proceedings where the Chair expressed that wish ?

**Prof. N. G. Ranga :** I have not got it handy now. I shall be able to show that later on.

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member ought not to make a statement without verifying whether it is correct or not.

#### WITHDRAWAL OF RECOGNITION OF THE BENGAL NAGPUR RAILWAY UNION.

570. **\*Mr. Mohan Lal Saksena :** (a) Will the Honourable Member for Commerce and Railways be pleased to state if it is not a fact that the recognition of the Bengal Nagpur Railway Union was withdrawn on the 19th February, 1937, and the strike was withdrawn on the 10th February, 1937, after an agreement between the Agent and the Union ?

(b) After the withdrawal of the strike, did the Agent do anything to warn the Union that unless certain conditions were fulfilled, the recognition would be withdrawn ? If not, why not ?

(c) Did the Agent have any confidence in the Union as then constituted, and if not, why did he negotiate with its President, Mr. V. V. Giri ?

(d) What is the total membership of the Union ?

(e) Does the Trade Union Act provide that a certain proportion of the executive committee members should be persons actually engaged in the trade ? If so, did not the Union executive personnel fulfil the condition ?

(f) Are Government prepared to advise the new Agent to recognise the Bengal Nagpur Railway Union forthwith subject to the compliance with the two conditions mentioned in the report ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) Reply to the first part is in the affirmative. As regards the second part, the strike was called off on the 10th February, 1937, following the acceptance by Mr. Giri of certain terms of settlement which were offered by the Agent, Bengal Nagpur Railway, under his letter, dated the 6th February, 1937.

(b) and (c). As regards the first part of (b) Government have no information. As regards the second part of (b) and part (c) this is a matter within the discretion of the Agent, Bengal Nagpur Railway, and Government are not prepared to express any opinion.

(d) Government have no information.

(e) As regards the first part of the question the reply is in affirmative. As regards the second part Government have no information beyond what has been stated in paragraph 50 of the report on certain matters relating to the settlement of the 1936-37 strike on the Bengal Nagpur Railway by Mr. Mudie, a copy of which will be found in the Library of the House.

(f) I would refer the Honourable Member to the reply given to parts (b) and (c) of the short notice question asked by Mr. N. M. Joshi in this House on the 31st August, 1937.

**Mr. T. S. Avinashilingam Chettiar :** In view of the fact that the Honourable Member said that he was considering the question of recognising the Union, may I know what steps the Government are taking in that matter ?

**The Honourable Sir Saiyid Sultan Ahmad :** I hope the Honourable Member will ask Mr. Mohan Lal Saksena, Mr. Gupta and Mr. Joshi who is not here and he will get the answer.

**Mr. T. S. Avinashilingam Chettiar :** I can ask the Honourable Member of the Government who is here to let me know ?

**The Honourable Sir Saiyid Sultan Ahmad :** Certain letters have been received by me and I propose to take some action.

**Prof. N. G. Ranga :** Has any representation been received from the B. N. R. Labour Union since the last reply was given by the Honourable Member in regard to the recognition of their Union ?

**The Honourable Sir Saiyid Sultan Ahmad :** Yes, Sir.

**Prof. N. G. Ranga :** What are the means adopted by the Railway Agent to get into touch with the workers and ascertain their views and grievances ?

**The Honourable Sir Saiyid Sultan Ahmad :** As I said before, so far as I am concerned, we are prepared to offer our good offices to bring about a settlement, but if the Union would like to take action independently, they can do say by sending their representation to the Agent who will reply.

**Prof. N. G. Ranga :** My question has not been answered. I want to know in view of the fact that the recognition of this Union has been withdrawn, what is the channel that is taken advantage of by the Agent, B. N. Railway, to get into touch with the workers and ascertain their views and their grievances ?

**The Honourable Sir Saiyid Sultan Ahmad :** I cannot answer that on behalf of the railway.

#### CONSULTATION OF THE INDIAN LEGISLATIVE ASSEMBLY FOR GIVING INSTRUCTIONS TO THE LEAGUE OF NATIONS DELEGATES.

571. **\*Mr. T. S. Avinashilingam Chettiar :** Will the Honourable the Law Member state :

(a) in view of his answer to starred question No. 210 of this Session, whether he will consider the advisability of consulting the

opinion of the Assembly before giving instruction to the Indian delegates to the League of Nations ; and

- (b) if so, whether Government will consider the matter of setting up a standing committee of the House, which can give the necessary advice when the House itself is not in Session and it is difficult to consult to it ?

**The Honourable Sir Nripendra Sircar :** (a) and (b). A recommendation in the precise sense of the suggestion contained in part (b) of the question was made in paragraph 101 of the Report of the Indian Delegation to the League Assembly in 1929. It was fully explored but Government found it necessary to reject it for the reasons explained at great length in Sir B. L. Mitter's speech on the Resolution moved by the Honourable Sir Phiroze Sethna in the Council of State on the 14th July, 1930, to which the Honourable Member is referred. Government must adhere to this decision and I fear that in the circumstances no means of giving effect to the desire voiced in part (a) of the question can be devised.

**Mr. T. S. Avinashilingam Chettiar :** What are the reasons given ?

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member has already said that it is a lengthy speech. I think the best course for the Honourable Member would be to read that speech and then if he likes he can put questions.

**Mr. T. S. Avinashilingam Chettiar :** But the Honourable Member did not say that it was a lengthy speech.

**Mr. President** (The Honourable Sir Abdur Rahim) : He did say so. The Honourable Member did not follow.

**The Honourable Sir Nripendra Sircar :** It covers three pages in print.

**Mr. T. S. Avinashilingam Chettiar :** In view of the fact that many years have elapsed since the speech was made last, will the Government reconsider this question ?

**The Honourable Sir Nripendra Sircar :** I have already answered :

“ I fear that in the circumstances no means of giving effect to the desire voiced in part (a) of the question can be devised.”

**Mr. T. S. Avinashilingam Chettiar :** What are the circumstances ?

**The Honourable Sir Nripendra Sircar :** The circumstances are set out in the lengthy speech of Sir B. L. Mitter.

**Mr. S. Satyamurti :** Now that the League Assembly is in session, and also in view of the fact that China has made an appeal to the Assembly of the League of Nations against the aggression of her territory by Japan, will my Honourable friend consult this House as to the opinion of India—an original Member of the League of Nations—as regards this appeal of China to the League of Nations ?

**The Honourable Sir Nripendra Sircar :** No, Sir.

**Mr. S. Satyamurti :** May I know the reasons ?

**Mr. President** (The Honourable Sir Abdur Rahim) : I think we had better go on with the next question.

**Mr. S. Satyamurti** : Does the Chair consider that this is a matter of no importance at all ?

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member already said that the matter has been dealt with at length in the speech by Sir B. L. Mitter and that the reasons are given there, and the Honourable Member also said that Government cannot reconsider the same.

**Mr. S. Satyamurti** : That was with reference to clause (b), namely : " whether Government will consider the matter of setting up a standing committee of the House which can give the necessary advice when the House itself is not in session and it is difficult to consult it " ?

I take the answer which the Honourable Member gave to this part of the question. I am not bothering about it at all. I am asking,—now that the House is in session, now that the Assembly of the League of Nations is meeting in Geneva, now that China is being invaded by Japan and that China has made an appeal to the League of Nations, and I, an original Member of the League of Nations,—my Honourable friend the reasons why he will not consult this House at all, about the opinion of India as regards this appeal from China against the aggressor ?

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member can answer it if he cares to.

**The Honourable Sir Nripendra Sircar** : It is known to us that there is war between China and Japan, it is also known to us what the feelings are not only of Indians, but of people all over the world. We see no advantage in following the course which has been proposed by my Honourable friend.

**Mr. S. Satyamurti** : May I know whether India, as an original Member of the League of Nations, has no opinion to offer on the dispute which has been referred to the League by another Member of the League of Nations ?

**The Honourable Sir Nripendra Sircar** : I never said there was no opinion to offer.

**Mr. S. Satyamurti** : May I know the reasons why the Government of India will not consult this House, while it is in session on a first class matter of international importance ?

**The Honourable Sir Nripendra Sircar** : Because Indian opinion is well known to the Government of India.

**Mr. S. Satyamurti** : Have the Government of India communicated that opinion to the League of Nations ?

**The Honourable Sir Nripendra Sircar** : I want notice.

**Mr. S. Satyamurti** : What is the appreciation of Indian opinion by the Government of India on these matters ?

**The Honourable Sir Nripendra Sircar** : We can judge by the public speeches and by newspaper reports that Indian opinion lies on the side of China against Japan.

**Mr. S. Satyamurti** : Has that been communicated to the League of Nations ?

**The Honourable Sir Nripendra Sircar** : I want notice.



## INDIA'S CONTRIBUTION TO THE LEAGUE OF NATIONS.

572. \***Mr. T. S. Avinashilingam Chettiar** : Will the Honourable the Law Member state :

- (a) what are the grounds on which the contribution of each country to the League of Nations is determined ;
- (b) from when the reduced contribution of India will come into effect ;
- (c) for what reasons the contributions were reduced ; and
- (d) whether India continues to represent Burma yet in the League ?

**The Honourable Sir Nripendra Sircar** : (a) The Honourable Member is referred to paragraph 5 of the First Report of the Allocation Committee of 1936, a copy of which is in the Library.

(b) It has already come into effect.

(c) I presume that by " the contributions " the Honourable Member means India's contribution. A reduction of four units was made in consideration of the separation of Burma. All other reductions in units were made on their merits. The rupee amount payable has further decreased as the result of the devaluation of the Swiss Franc which has led to a reduction in the total amount of the League Budget, and, consequently, in the amount of each member's contribution, by 20 per cent. with the prospect of a refund of a further amount of 10 per cent.

(d) No.

**Mr. T. S. Avinashilingam Chettiar** : May I know whether this reduction is due to the separation of Burma from India and to the devaluation of the Swiss Franc or is due to any representation made by the Government of India ?

**The Honourable Sir Nripendra Sircar** : My Honourable friend evidently did not listen to any part of the answer I read out just now.

**Mr. T. S. Avinashilingam Chettiar** : I did not follow it.

**Mr. President** (The Honourable Sir Abdur Rahim) : He gave the answer. I followed it.

## ESTABLISHMENT OF THE FEDERAL RAILWAY AUTHORITY.

573. \***Mr. T. S. Avinashilingam Chettiar** : Will the Honourable Member for Commerce and Railways state :

- (a) when the Statutory Railway Authority is expected to be established ; and
- (b) what will be the powers of this House over the Railways after it is established ?

**The Honourable Sir Saiyid Sultan Ahmad** : (a) I would refer the Honourable Member to my reply to part (a) of starred question No. 125 asked by Mr. Satyamurti on 26th August, 1937, in this House.

(b) I would refer the Honourable Member to Part VIII, Sections 181 to 199 of the Government of India Act, 1935, a copy of which is in the Library of the House.

**Mr. T. S. Avinashilingam Chettiar :** May I know what will be the exact position of this House in the matter of the daily administration of the railways after this Statutory Railway Authority is set up ?

**The Honourable Sir Saiyid Sultan Ahmad :** That question does not arise.

**Mr. T. S. Avinashilingam Chettiar :** The President has not ruled that it does not arise. I submit to you, Sir, that the Honourable Member cannot say that it does not arise. I want an answer to my question.

**Mr. President (The Honourable Sir Abdur Rahim) :** If he cannot give the answer, I cannot compel him to do so.

**Mr. T. S. Avinashilingam Chettiar :** But he only says it does not arise.

**Mr. S. Satyamurti :** The point, Sir, is this. It is not open to any Member on the Treasury Benches to say that it does not arise. I submit that it is for you to say whether it does or does not arise.

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member can appeal to the Chair.

**Mr. T. S. Avinashilingam Chettiar :** You have not ruled that it does not arise.

**Mr. President (The Honourable Sir Abdur Rahim) :** He is submitting to the Chair that it does not arise.

**Mr. S. Satyamurti :** He did not use the word "submit". I am trying to help you and this House. We are not at all hostile in this matter, and if you think so.....

**Mr. President (The Honourable Sir Abdur Rahim) :** Order, order ; the Honourable Member must withdraw it.

**Mr. S. Satyamurti :** I withdraw it, because I do not want it at all. I say we are not doing it in any hostile spirit but in a friendly spirit. It is as much the duty of the Treasury Benches as of these benches to submit to the ruling of the Chair, as to whether a supplementary question arises or not. I submit that it is no submission to sit down in your seat and say that it does not arise. I submit that form requires and substance may also require that he should submit to the Chair in terms that it does not arise. Then it is open to us to make our submission, and you can then rule whether it arises or not.

**Mr. President (The Honourable Sir Abdur Rahim) :** What does happen is this. The Honourable Member of Government is asked a certain supplementary question. He says that it does not arise. Then if the questioner challenges that he can appeal to the Chair. And that very often happens.

**Mr. T. S. Avinashilingam Chettiar :** I submit, Sir, that it does arise.

**The Honourable Sir Saiyid Sultan Ahmad :** The first question was when the statutory railway authority is expected to be established. The answer had already been given by me in answer to the starred question.

The second was, what will be the powers of this House over the railways after it is established. I have referred the Honourable Member to the Government of India Act.

**Mr. T. S. Avinashilingam Chettiar :** My question was, what will be the influence of this House over the daily administration of the Railways.

**Mr. President** (The Honourable Sir Abdur Rahim) : I certainly hold that that does not arise.

**Mr. S. Satyamurti :** With reference to the answer to clause (b), may I know whether, apart from the provisions of the Government of India Act, 1935, with regard to railway policy and the raising of monies, Government propose, as recommended by the Wedgwood Committee's report, to give the federal railway authority any power to raise such loans as they may require in the open market, in order to prevent any question of policy being raised on the floor of this House ?

**The Honourable Sir Saiyid Sultan Ahmad :** No decision has been taken yet, and I cannot answer that.

**Mr. S. Satyamurti :** Have Government considered the recommendation ?

**The Honourable Sir Saiyid Sultan Ahmad :** It is being considered, but no final decision has been taken.

**Prof. N. G. Ranga :** Will it be possible for Honourable Members of this House to put questions to Government with regard to railway administration, to elicit information after the railway authority comes into existence ?

**The Honourable Sir Saiyid Sultan Ahmad :** That question does not arise, I submit. (Laughter.)

#### PRACTICAL TRAINING OF THE ENGINEERING CADETS OF THE " DUFFERIN ".

574. **\*Mr. K. Santhanam :** (a) Will the Honourable Member for Commerce please state the arrangements for the practical training of the Engineering cadets in the I.M.M.T.S. " Dufferin " ?

(b) How many workshops in India are available for the purpose ?

(c) What is the period of apprenticeship ?

(d) Will the cadets be able to support themselves during this period ?

(e) Was any vacancy reserved for these cadets in the recruitment this year to the Engineering Section of the Royal Indian Navy ?

(f) Are steps being taken to see that after such a prolonged training, these cadets do not find themselves unemployed ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) and (c). After passing out from the Training Ship " Dufferin " the Engineering cadets will have to serve as apprentices in workshops before they can appear at an examination for a Second Class Engineer's Certificate. The workshop service ordinarily required of a candidate is four years, but the Board of Trade and the Government of India have decided to grant a remission of one year in the case of *ex*-cadets of the " Dufferin ", in whose case the period will thus be reduced to three years.

(b) A number of workshops are available at some of the major ports in India and the authorities concerned have been approached through the Provincial Governments for the grant of necessary training facilities. The scheme is well in hand, but final details have not yet been settled.

(d) No ; but in order to encourage an element of competition among the cadets while on the " Dufferin " and to enable them to retain their self-respect and ambition while training in the workshops, the Government of India have decided to grant 15 scholarships, each of the value of Rs. 50 per mensem, tenable during the three years' period of workshop training, which will be awarded on the results of the Final Passing Out Examination of the " Dufferin ".

(e) No vacancy in the Engineering Branch of the Royal Indian Navy has been reserved this year for the " Dufferin " boys ; but two vacancies in the Executive Branch have been offered for competition among the cadets of the " Dufferin " at the Special Examination to be held in October, 1937, for which both the Executive and the Engineering cadets are eligible.

(f) The first batch of Engineering cadets will pass out from the " Dufferin " at the end of this year and will not complete their workshop training till 1941. Government propose to address the Shipping Companies on the subject of the employment of Engineering cadets, in due course.

**Mr. K. Santhanam :** May I know when the arrangements for practical training will be complete ?

**The Honourable Sir Saiyid Sultan Ahmad :** I cannot give the exact time but we are expediting it, and settle it as quickly as possible.

**Mr. K. Santhanam :** Will the first batch be ready for training in December next ?

**The Honourable Sir Saiyid Sultan Ahmad :** I cannot say.

**Maulana Zafar Ali Khan :** Will employment be found for these cadets on sea or on land ?

**The Honourable Sir Saiyid Sultan Ahmad :** On sea, land or air. (Laughter.)

#### CLASSIFICATION OF *Koris* IN THE UNITED PROVINCES.

575. **\*Mr. K. Santhanam :** Will the Honourable the Leader of the House please state :

(a) with reference to his reply and the supplementary question to question No. 229, dated the 1st September, 1937, whether the Government of the United Provinces can change the classification of *Koris* in that Province ; and

(b) if not, who is the authority and what is the procedure to change it ?

**The Honourable Sir Nripendra Sircar (a)** No, Sir.

(b) The classification is prescribed in the Government of India (Scheduled Castes) Order, 1936, and this Order can be altered only by

His Majesty in Council. It is for the Government of the United Provinces if they so desire (and not for the Government of India) to move His Majesty's Government in the matter.

**Mr. K. Santhanam** : Am I to understand that the Government of India have nothing to do with this classification ?

**The Honourable Sir Nripendra Sircar** : My answer is perfectly clear. I said that the classification is prescribed in the Government of India (Scheduled Castes) Order, 1936, which can be altered only by His Majesty in Council, and the Government of the United Provinces may move His Majesty's Government in the matter.

**Mr. Sri Prakasa** : What part had the Government of India in the original classification ? Did they recommend to His Majesty in Council to put these unfortunate *Koris* in the scheduled castes, or did His Majesty in Council do it of their own accord ?

**The Honourable Sir Nripendra Sircar** : I have no papers with me to answer this question. I shall be glad to do so if notice is given or if my Honourable friend will ask me outside.

**Mr. Mohan Lal Saksena** : Is it not a fact that the Local Government could not have written to His Majesty's Government direct, and it must have been the Government of India which acted in the matter ?

**The Honourable Sir Nripendra Sircar** : It is quite possible.

#### APPOINTMENT OF MUSLIMS AS ENGINEERS ON RAILWAYS.

576. **\*Dr. Ziauddin Ahmad** : Will the Honourable Member for Commerce and Railways state :

- (a) How many temporary Engineers were appointed and how many of them were Muslims ?
- (b) How many of these Engineers have been taken in the Lower Gazetted Service and how many of them were Muslims ?
- (c) How many Engineers were promoted from the Lower Gazetted Service to the Indian Service of Engineers during the past fifty years and how many of them were Muslims ?

**The Honourable Sir Saiyid Sultan Ahmad** : (a) and (b). If the Honourable Member will specify the railways and the period for which the information is required I shall endeavour to furnish a reply.

(c) The Lower Gazetted Service in the Civil Engineering Department of the State-managed Railways was created on the 1st March, 1931. Since that date, six engineers from the Lower Gazetted Service have been promoted to the Indian Railway Service of Engineers, of whom none is a Muslim.

#### SELECTION OF ENGINEERING STAFF IN THE QUETTA DIVISION OF THE NORTH WESTERN RAILWAY.

577. **\*Dr. Ziauddin Ahmad** : (a) Will the Honourable Member for Commerce and Railways please state whether it is a fact that the Divisional Superintendent of Quetta, North Western Railway, invited applications for appointment in the Engineering staff as Inspector of Works and Sub-Inspector of Works, etc. ?

(b) Is it a fact that several persons presented themselves before the Selection Committee and about twenty-four persons were selected ?

(c) Is it not a fact that these persons after selection were asked to go home at their own expense, which was not mentioned in the advertisement ?

(d) Was any post given to any of these persons who were selected in this manner ?

(e) Is it not a fact that appointment was also made before the Selection Committee met on the strength of recommendation alone ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) to (e). I am obtaining the information required and will lay a reply on the table of the House in due course.

#### PROPORTIONS MAINTAINED FOR APPOINTMENTS TO RAILWAY SERVICES.

578. **\*Babu Kailash Behari Lal :** Will the Honourable Member for Commerce and Railways be pleased to state :

- (a) how many miles of railway lines of each Railway, the Bengal and North Western and the East Indian, fall in Bihar and how many in other provinces ;
- (b) if in the matter of appointment in the Railway services, Government maintain a communal proportion on a religious basis only, or any regard is paid to the maintenance of proportion on a provincial basis as well ;
- (c) how many Travelling Ticket Inspectors or Travelling Ticket Checkers there are on the East Indian Railway and how many belong to each province ; and
- (d) if any proportion is maintained between Indians and Anglo-Indians and Europeans in respect of appointment in the Railway services on the different Railways ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) The Bengal and North Western Railway has 1,007 miles in Bihar and 1,106 in the United Provinces and the East Indian Railway has 642 miles in Bengal, 1,220 miles in Bihar and 2,530 miles in the United Provinces.

(b) The reply to the first part is in the affirmative and to the second part in the negative.

(c) Staff statistics are not prepared by provinces.

(d) I would refer the Honourable Member to the Railway Department (Railway Board) letter, No. E-34-CM-113, dated 12th December, 1934, a copy of which is in the Library of the House.

**Mr. Sri Prakasa :** With reference to part (a), when the Bengal and North Western Railway does not run either in Bengal or in the North-West, why is it so called ?

**The Honourable Sir Saiyid Sultan Ahmad :** The United Provinces used to be called the North Western Provinces formerly.

**Babu Kailash Behari Lal :** Is it a fact that every year a statement of the communal composition of railway services is submitted by the railway authority to Government ?

**The Honourable Sir Saiyid Sultan Ahmad :** I think so.

**Babu Kailash Behari Lal :** With reference to that, can the Honourable Member say what is the proportion of each community ?

**The Honourable Sir Saiyid Sultan Ahmad :** I cannot say that because I have not got the figures here.

**Mr. Ram Narayan Singh :** Is it not the duty of the authorities to see that in public services, especially in railway services, all provinces are sufficiently represented ?

**The Honourable Sir Saiyid Sultan Ahmad :** The attention of the Railway Administrations has been drawn to this, though the Government of India have never accepted the principle of provincial or territorial representation.

#### LICENCES GRANTED TO VENDORS ON RAILWAY STATIONS IN BIHAR.

579. **\*Babu Kailash Behari Lal :** Will the Honourable Member for Commerce and Railways be pleased to state :

- (a) what is the system at present about granting licences to the vendors at the railway stations of the East Indian Railway and the Bengal and North Western Railway ;
- (b) if it is a fact that for the last few years the licences, instead of being granted to the indigenous vendors, are granted to the big firms who have their own vendors at every station ; and
- (c) whether it is a fact that licences have been granted to the Punjab firms to vend all kind of articles at the railway stations in Bihar, so that indigenous vendors carrying on vending business at Bihar Railway Stations have all been thrown out of employment by these Punjab firms having imported their own men from outside the province ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) I am placing on the table a statement giving the desired information.

(b) and (c). I am calling for the information from the Railways concerned and will lay a reply on the table in due course.

#### STATEMENT.

##### SYSTEM ADOPTED ON THE BENGAL AND NORTH WESTERN RAILWAY IN GIVING CONTRACTS FOR VENDING AT STATIONS.

1. Vending at stations and on platforms of :—
    - (i) food and drinks.
- At important Junction stations where Indian Refreshment Rooms exist, the Refreshment Room Contractors are men who have had experience of catering for many years and who are well known personally to the administration. These men are given the entire contract for the station and platform vending, which includes articles of food, drinks, tobacco and cigarettas etc. These men are selected and appointed by the Traffic Manager.

At small roadside stations, as far as possible, the Halwais are local professional vendors appointed by the District Traffic Superintendent, subject to approval of the Traffic Manager.

On a vacancy occurring, applications are received from different candidates. It has never been found necessary to invite such applicants, reference is generally made to people of standing in the locality with a view to ensuring that the most suitable candidate is selected.

Contracts are of a permanent nature as will be seen from the attached copy of the contract.

*The contractors pay nothing to the Railway for the privilege of vending.*—They pay rent on the usual terms for quarters they may occupy and deposit as security a sum varying between Rs. 15 and Rs. 100, according to the importance of the contract. This security deposit is refundable on termination of the contract.

Each vendor is provided with a schedule of rates fixed by the Railway Company which is exhibited on his vending tray. These rates are fixed in consultation with the Civil Authorities and are revised periodically.

Vendors are supplied with a platform pass in which spaces are provided for the Station Master's daily signature. The Station Master inspects all food-stuffs every morning and signs in the spaces allotted in token of having done so. He also inspects the general cleanliness of the vendors. A copy of the pass form is attached for ready reference.

The Medical staff of the Railway also make periodical inspections of the articles of food sold by the vendors, and report any defects in food or equipment to District Traffic Superintendents who themselves keep an eye on the vendors and their supplies. Complaints which may be received from the travelling public or from other sources are enquired into by the District Traffic Superintendent and Medical Officer.

Tea is provided at Junctions and important stations. Of recent years the Tea Cess Committee has undertaken the supervision of tea sold at special tea stalls.

(ii) Cigarettes, tobacco, etc. The same remarks as for food and drinks under item (i).

(iii) Miscellaneous Articles other than (i) and (ii) above. Contracts are not granted on this railway for selling miscellaneous articles at station platforms as it is considered desirable to limit the number of vendors admitted to station premises and platforms to the minimum required.

At a few selected stations, however, contracts are granted for the sale of articles manufactured locally. Such contracts when granted are dealt with on the same lines as for (i) and (ii) above.



*System adopted on the East Indian Railway in giving contracts for vending at stations.*

<p>The system adopted on this railway in giving contracts for :— (i) Vending at stations and on platforms of :—</p>	<p><i>Howrah Division.</i></p> <p>(i) and (ii). At Howrah station the Indian Refreshment Rooms are under separate Hindu and Mohammedian contractors and there are also petty contractors who keep tea-stalls, etc. and sell other kinds of eatables in the 3rd class waiting rooms. The Refreshment room contractors also employ hawkers who perambulate the station platform, etc.</p> <p>On the remainder of the Division</p>	<p><i>Accabad Division.</i></p> <p>(i) and (ii). The Indian Refreshment rooms are worked by separate Hindu and Mohammedian contractors. The larger stations also have other minor contractors running separate tea-stalls, etc. for each community and at the roadside stations there are petty vendors for the various articles of consumption.</p> <p>Cigarettes and tobacco are included in the Refreshment contracts and are</p>	<p><i>Dinapore Division.</i></p> <p>(i) and (ii). On the Dinapore Division an attempt was made to introduce the Area Contract System as defined in the Minutes of 112th Meeting of the Calcutta Advisory Committee under which it was proposed that a contractor working from a central station should control an area of from 25 miles to 30 miles on either side. These areas were found to be too small and the Division was divided up into 4 areas as follows :— (a) <i>Mughal Sarai Area.</i>—Mughalsarai to Dildarnagar (inclusive), the Tari Ghat Branch and on Grand Chord Section to Sasaram (inclusive).</p>	<p><i>Allahabad Division.</i></p> <p>(i) and (ii). The policy is eventually to have only two contractors, one Hindu and one Mohammedian, for the whole Division but to avoid hardship to the existing petty vendors this policy has not been introduced entirely. At present two contractors one Hindu and one Mohammedian, viz., Messrs. S. L. Kapoor &amp; Co., and Isa Brothers have been appointed who have taken over the</p>	<p><i>Lucknow Division.</i></p> <p>(i) and (ii). The Indian Refreshment Rooms are in the hands of Hindu and Mohammedian firms of repute and there are other petty Hindu and Mohammedian contractors selling refreshments at road-side stations.</p> <p>Cigarettes and tobacco are included in the Refreshment contracts and are not considered as separate items.</p>	<p><i>Moradabad Division.</i></p> <p>(i) and (ii). The Indian Refreshment Rooms are in the hands of Hindu and Mohammedian firms of repute and there are other petty Hindu and Mohammedian contractors selling refreshments at road-side stations.</p> <p>Cigarettes and tobacco are included in the Refreshment contracts and are not considered as separate items.</p>
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all sales at stations are in the hands of Messrs. Ballabhadras Eshwardas except at stations between Howrah and Bandel where petty contractors have been appointed at each.

Cigarettes and tobacco are included in the Refreshment contracts and are not considered as separate items.

not considered as separate items.

(b) *Gaya Area*.—Manpur to Sasaram (exclusive) and the Barkakana Loop up to Barwadih (inclusive).

(c) *Patna Area*.—Barh (exclusive) to Dildarnagar (exclusive) and the Patna-Gaya Branch.

(d) *Kiul Area*.—Jhajha to Barh (inclusive), the South Behar and Loop lines up to Dharara (inclusive).

Even these four areas were found to be too small to attract any firms of repute and it became necessary to amalgamate them into two areas as follows :—

(a) From Moghalserai to Dildarnagar (inclusive) and Tari Ghat Branch and on Grand Chord Section to Manpur also the Barkakana Loop up to Barwadih (inclusive).

(b) From Jhajha to Dildarnagar (exclusive) and Patna-Gaya Branch, the South Behar and Loop lines up to Dharara (inclusive).

Indian Refreshment Rooms and the smaller contracts are held by petty contractors or vendors.

Cigarettes and tobacco are included in the Refreshment contracts and are not considered as separate items.

*System adopted on the East Indian Railway in giving contracts for vending at stations—contd.*

The system adopted on this railway in giving contracts for:— (1) Vending at stations and on platforms of:—	<i>Howrah Division.</i>	<i>Assam Division.</i>	<i>Dinapore Division.</i>	<i>Allahabad Division.</i>	<i>Lucknow Division.</i>	<i>Moradabad Division.</i>
			<p>The contractors, one Moham-medan and one Hindu, were appointed to each area—Messrs. Ballabhadras Eshwardas and Messrs. Isa Bros. on the Mughalsarai Area. Messrs. S. L. Kapoor &amp; Co. and Messrs. A. H. Khan &amp; Co. on the Patna Area, took over all sales at all stations in the area, both, as regards Refreshment Rooms at the larger stations and the petty vending at road side stations. The one exception being the Hindu Refreshment Room at Mughal Sarai which the Calcutta Marwari Association have been permitted to retain under their management.</p> <p>Cigarettes and tobacco are included in the Refreshment contracts and are not considered as separate items.</p>			

(iii) Miscellaneous articles other than (i) and (ii) above.

(iii) Miscellaneous articles are sold by Ballabhadras Eshwardas over the area covered by them and at other stations where licenses have been issued, miscellaneous articles are sold by other petty vendors under special conditions.

(iii) Miscellaneous articles such as seroys, toys, etc., are sold by petty contractors at a few stations on this Division on special terms.

(iii) The sale of miscellaneous articles is included in the area contracts.

(iii) Miscellaneous articles are sold at certain stations by separate petty contractors under special conditions.

(iii) Miscellaneous articles are sold by separate contractors at 5 stations only on this Division. The Divisional Superintendent is not in favour of permitting the sale of miscellaneous articles on platforms and proposes not to renew the existing licences on their expiry on 31st March, 1935.

(iii) Miscellaneous articles are sold at certain stations by separate contractors on special terms.

**Babu Kailash Behari Lal :** May I know whether complaints have been received by the higher authorities in regard to the award of vending contracts ?

**The Honourable Sir Saiyid Sultan Ahmad :** Representations have been received.

**Babu Kailash Behari Lal :** Have enquiries been made ?

**The Honourable Sir Saiyid Sultan Ahmad :** That question does not arise.

**Mr. Mohan Lal Saksena :** Has any action been taken ?

**The Honourable Sir Saiyid Sultan Ahmad :** No, so far as I know.

**Mr. Mohan Lal Saksena :** Do the Government propose to take any action ?

**Mr. Sri Prakasa :** May I know if representations that have been made to the Railway Board by the *ex*-licencees of the Dinapore section are being sympathetically considered ?

**The Honourable Sir Saiyid Sultan Ahmad :** I have no information on that.

NAMES AND ADDRESSES OF THE PERSONS KILLED IN THE BIHTA TRAIN  
DISASTER.

580. **\*Babu Kailash Behari Lal :** (a) Will the Honourable Member for Commerce and Railways be pleased to state with reference to his answer given on 3rd September, 1937, to the supplementary question regarding the names and addresses of the persons killed in the Bihta train disaster, if Government tried to obtain the names and addresses of the persons killed ?

(b) If the answer to the above be in the affirmative, what method did Government pursue to obtain information regarding the dead persons ?

(c) Regarding how many persons have Government obtained definite information about their names and addresses ?

(d) Will Government kindly state the names and addresses of the persons killed as far as they have been able to ascertain them ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) to (d). I have called for precise information on all the points mentioned from the Agent, East Indian Railway, and will lay a reply on the table in due course.

**Babu Kailash Behari Lal :** Is it a fact that a judge has been appointed to hold an inquiry at Allahabad ?

**The Honourable Sir Saiyid Sultan Ahmad :** A communique has been published, and I would refer the Honourable Member to it.

**Prof. N. G. Ranga :** Is he holding a private or public inquiry ?

**The Honourable Sir Saiyid Sultan Ahmad :** I have given the answer in my reply to a question by Mr. S. Satyamurti on this point.

**REPLACEMENT OF INTERMEDIATE CLASS CARRIAGES ON THE BENGAL AND NORTH WESTERN RAILWAY.**

581. **\*Babu Kailash Behari Lal :** Will the Honourable Member for Commerce and Railways be pleased to state :

- (a) if Government are aware that the Bengal and North Western Railway have not introduced the new type of inter. class carriages as yet in the Branch Lines and the existing old ones are not only not repaired but the dirty cushions are not even washed and cleansed and such dirty cushioned old type of inter. class carriages are allowed to run between Bararighat and Bhagalpur ; and
- (b) how long the Bengal and North Western Railway would take to replace the old type of inter class carriages with the "new type ones ?

**The Honourable Sir Saiyid Sultan Ahmad :** The information is being collected and will be laid on the table of the House in due course.

**ABSENCE OF BATH OR LATRINE ARRANGEMENT IN THE INTERMEDIATE CLASS WAITING ROOM AT KIUL.**

582. **\*Babu Kailash Behari Lal :** Will the Honourable Member for Commerce and Railways be pleased to state :

- (a) if it is not a fact that Kiul being an important junction station for the loop line and chord line on the East Indian Railway all the mail and express trains stop there, but there is no arrangement for bath or latrine in the inter. class waiting room ; and
- (b) if the authorities are aware that sometimes the change at Kiul involves a passenger to wait even up to five hours at the station waiting room and, there being no arrangement for bath or latrine in the inter. class waiting room, one has to suffer a good deal of trouble on that account ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) and (b). Government have no information about bath or latrine accommodation in the intermediate class waiting room at Kiul. The matter is within the entire discretion of the Agent, who can be approached either direct or through his Local Advisory Committee. A copy of the Honourable Member's question, however, is being sent to the Agent, East Indian Railway.

**GRIEVANCES OF THE PATNA PUBLIC REGARDING SHUTTING UP OF THE WESTERN LEVEL CROSSING GATES.**

583. **\*Mr. Ram Narayan Singh :** Will the Honourable Member for Commerce and Railways be pleased to state :

- (a) whether the Senior Superintendent, Way and Works, Dinapure, held an enquiry into the grievances of the people of Patna in connection with the shutting up of the gates of the western level-crossing of the Patna Junction Railway Station on the 23rd June, 1937, and if so, what the result of the enquiry is ; and

- (b) whether the Railway authority has decided to remove the grievances of the public at Patna by providing an additional level-crossing between the Gardiner Road and the Kagaul Road, and if so, when the decision will be given effect to ?

**The Honourable Sir Saiyid Sultan Ahmad :** Enquiries are being made from the Railway Administration and a reply will be laid on the table in due course.

**LACK OF ARRANGEMENT FOR SUPPLY OF WATER ON STATIONS ON THE PATNA GAYA BRANCH AND SOUTH BIHAR RAILWAY.**

584. **\*Mr. Ram Narayan Singh :** Will the Honourable Member for Commerce and Railways be pleased to state whether there are watermen to serve the Railway passengers with water at all the railway stations on the Patna-Gaya Railway line and also on the South Bihar Railway line between Gaya and Lakhisarai, and if so, are Government aware that no water is generally available on the arrival of trains on any of the stations on the lines mentioned above ? If so, why ?

**The Honourable Sir Saiyid Sultan Ahmad :** Government have no information. I am, however, having enquiries made, and will lay a reply on the table in due course.

**OVERCROWDING OF TRAINS IN BIHAR DURING THE MARRIAGE SEASON.**

585. **\*Mr. Ram Narayan Singh :** Is the Honourable Member for Commerce and Railways aware of the fact that during marriage season, generally in summer, there is always an abnormal rush of passengers everywhere in the country, particularly in the Province of Bihar, most urgently requiring more accommodation in the railway trains than in ordinary trains and if so, is he prepared to direct the Railway authorities concerned to run more trains on the lines or to attach more carriages to all trains and thus to avoid too much overcrowding of passengers in the trains ?

**The Honourable Sir Saiyid Sultan Ahmad :** Government are aware that during certain seasons of the year more passengers travel than at other times. To meet this increase railways normally augment the stock of passenger trains and for purposes of check on overcrowding a periodical census is conducted. I will, however, send a copy of this question and the reply thereto to the Agents of the East Indian, Bengal Nagpur and Bengal and North Western Railways so that they may consider if any further action is necessary.

**Mr. N. V. Gadgil :** Are concessions granted to marriage parties ?

**The Honourable Sir Saiyid Sultan Ahmad :** I submit that does not arise.

**Prof. N. G. Ranga :** It was on the 26th of August that you observed as follows.....

**Mr. President (The Honourable Sir Abdur Rahim) :** That is finished.

**Prof. N. G. Ranga :** An Honourable Member is entitled to make a submission.

**Mr. President** (The Honourable Sir Abdur Rahim) : An Honourable Member cannot have the proceedings in his own way. The questions are over now, and I cannot allow you to put any more questions.

### (b) WRITTEN ANSWERS.

#### CONTACT BETWEEN THE RAILWAY ADMINISTRATION AND THE COMMERCIAL AND TRAVELLING PUBLIC.

558. \***Prof. N. G. Ranga** : (a) Will the Honourable Member for Railways be pleased to state whether the Wedgwood Committee has drawn pertinent attention to the want of contact between the Railway Administration and the commercial and the travelling public and insisted upon immediate steps being taken to establish such contacts ?

(b) Have Government considered the advisability of developing such contacts through the reorganization of the Local Advisory Committees so that :

- (i) adequate representation is given on them to the Third Class Passengers' Associations and the Peasants Associations ;
- (ii) regular offices are maintained for them at all important towns to receive complaints and suggestions and to explain the steps being taken or proposed to be taken by the railways to give satisfaction to the public ; and
- (iii) to maintain a regular and continuous correspondence between the organs of the users of the railways and the railway authorities ?

(c) If not, are Government prepared to consider the advisability of consulting the Central Railway Advisory Committee about it ?

**The Honourable Sir Saiyid Sultan Ahmad** : (a) Yes. The Wedgwood Committee have recommended the desirability of Railway Administrations establishing closer contact with the public.

(b) Government have not yet decided what further action should be taken on the recommendation of the Wedgwood Committee in this matter, but the suggestion made by the Honourable Member will be borne in mind.

(c) Government will shortly discuss with the Central Advisory Council for Railways the question of an alteration in the constitution of Local Advisory Committees, and Government will consider the advisability of further consulting the Central Advisory Council should any other re-organisation be deemed necessary.

#### ENQUIRY IN THE SALE OF SCRAP IRON ON THE NORTH WESTERN RAILWAY.

564. \***Sardar Sant Singh** : (a) With reference to the answer given to question No. 407 on 16th February, 1937, will the Honourable Member for Railways kindly state if it is a fact that, as a result of press propaganda and telegrams and letters to the Railway Board, the latter



appointed a Committee of Enquiry into the sale of scrap iron of sorts by the North Western Railway with Mr. Mudie as Chairman ? If so, will the Honourable Member lay its report and the orders of Government on the same on the table ?

(b) For how many days did this Committee hold its sittings and at which places ? How many witnesses did the committee examine ? How many of the witnesses were Railway employees ? How many were non-officials ?

(c) Is it a fact that this committee received on Saturday, the 3rd April, 1937, a letter jointly written by 11 firms dealing in scrap iron and desiring an examination by the committee ? If so, will Government lay the letter on the table of the House ?

(d) Is it a fact that the Committee summoned only one merchant out of the 11 applicants for Monday, the 5th April, 1937 ? If so, why were the remaining not summoned simultaneously ?

(e) Is it a fact that the merchant summoned went back from the representation and since then he has been rewarded with a big contract on the North Western Railway of 6,400 tons cast iron at Rs. 70-14-0 per ton, while the market price of the quality of that iron at that time was about Rs. 83 per ton, thus causing a loss of about 70,000 to the railways ?

(f) Is it correct that immediately after the committee refused to examine the witnesses from amongst the merchants, the latter sent letters of complaint to the Railway Board ?

(g) Have Government received any complaints against the Controller of Store, Lahore, on account of his many manipulations of the sale of scrap iron ? If so, how many and from whom ? What action do Government propose to take to make inquiries into the conduct of the Controller ?

**The Honourable Sir Saiyid Sultan Ahmad :** The information is being collected and will be laid on the table of the House in due course.

#### CONSTRUCTION OF AN OVERBRIDGE ON THE GATTI SIDE AT THE LYALLPUR RAILWAY STATION.

565. **\*Sardar Sant Singh :** (a) Will the Honourable Member for Commerce and Railways be pleased to state how many trains, both goods and passengers, passed over the line leading to Lyallpur Railway Station from the Gatti side in the month of June, 1937 ? What is the daily average of such trains ?

(b) Is it a fact that the gate on the Gatti side has to be closed for traffic when such trains arrive to or depart from Lyallpur ? Is it a fact that this obstructs the traffic on the Jaranwala Lyallpur Road to a considerable degree ?

(c) Do Government propose to construct an overhead bridge over the line ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a), (b) and (c). Government have no information.

Their policy is to leave to the discretion of Railway Administrations such matters as the provision of overbridges where circumstances justify them. The matter is, therefore, one which can most suitably be referred to the Agent of the Railway concerned through the Local Advisory Committee.

## UNSTARRED QUESTIONS AND ANSWERS.

### FREIGHT ON BETEL LEAVES ON THE SOUTH INDIAN RAILWAY.

96. **Mr. C. N. Muthuranga Mudaliar** : Will the Honourable Member for Commerce and Railways please state :

- (a) the freight rates for betel leaves charged by the South Indian Railway before 1914 and after 1914 and also the present rate ;
- (b) whether it is a fact that the rates are higher now than they were before 1914 ;
- (c) whether it is a fact that the price of betel leaves has fallen considerably now as compared to that of 1914 ;
- (d) whether it is a fact that betel leaves were classed among perishable articles and charged only half rates before 1914 ; and
- (e) whether the Honourable Member proposes to instruct the South Indian Railway administration to reduce the freight on betel leaves as it was before 1914, treating it as a perishable article ?

**The Honourable Sir Saiyid Sultan Ahmad** : (a) to (d). The information is being called for from the Agent, South Indian Railway, and will be laid on the table of the House when received.

(e) The suggestion will be conveyed to the Agent, South Indian Railway, for such action as he may consider necessary.

### AGRA BAH BRANCH OF THE GREAT INDIAN PENINSULA RAILWAY.

97. **Pandit Sri Krishna Dutta Paliwal** : Will the Honourable Member for Commerce and Railways kindly state :

- (a) if it is a fact that Agra Bah Branch line on the Great Indian Peninsula Railway is going to be discontinued ; if so, when and why ;
- (b) whether Government are prepared to give a trial to the measures suggested by the public and authorities of Agra to improve the income of the Branch ; if not, why not ; and
- (c) whether they are prepared to consider the desirability of connecting this line with the East Indian Railway at any station from Jaswant Nagar to Etawah in Etawah District, United Provinces ; and if not, why not ?

**The Honourable Sir Saiyid Sultan Ahmad** : (a) The Great Indian Peninsula Railway have put up a proposal for the closing of Agra Bah branch line ; the proposal is at present under examination.

(b) The suggestions of the Local Government will also be examined in connection with this report.

(c) The suggestion for the extension of the line to connect with the East Indian Railway near Etawah would involve bridging the Jumna and the cost of this would be prohibitive and unremunerative.

**ABSENCE OF A BRIDGE ON THE CROSSING OF THE AGRA-JAGNER ROAD AND THE AGRA CANTONMENT CABIN.**

**98. Pandit Sri Krishna Dutta Paliwal :** Will the Honourable Member for Commerce and Railways be pleased to state :

- (a) how many representations have been received from Agra public as regards the great inconvenience caused to them on account of there being no bridge on the crossing of the Agra-Jagner road and the Agra Cantonment cabin of the Great Indian Peninsula Railway ;
- (b) the dates on which these representations were received and the action taken on them ; and
- (c) what action if any, Government propose to remedy the grievances of the public in connection with this crossing ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) to (c). The Honourable Member is referred to the information laid on the table on 23rd September, 1935, in reply to his question No. 374 in the Legislative Assembly on 16th September, 1935. Government have received no further representations since that date.

**CONSTRUCTION OF A WAITING ROOM AT SIKANDRA STATION ON THE GREAT INDIAN PENINSULA RAILWAY.**

**99. Pandit Sri Krishna Dutta Paliwal :** Will the Honourable Member for Commerce and Railways state :

- (a) if Government have received any representations from the public about constructing a railway room at Sikandra railway station, (Great Indian Peninsula Railway) near Agra ; if so, what action, if any, they have taken or propose to take in the matter ;
- (b) whether they are aware that the verandah there is too small even for six passengers, if two or three of them happen to be purdah-nashin ladies with their little babies ;
- (c) whether they have considered the possibility of all the twelve outward passengers travelling by the same train and the impossibility of the small so-called verandah to accommodate them ; if so, with what results ;
- (d) whether Government are also aware that there is occasional rush of passengers on this station ; and
- (e) whether Government propose to remedy the grievance of the travelling public ; if so, when and how ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) Government have received no representations.

(b), (c) and (d). Government have no information.

(e) The matter is within the competence of the Railway Administration, who can be approached through the Local Advisory Committee. A copy of the Honourable Member's question has already been sent to the Agent, Great Indian Peninsula Railway.

#### COMING INTO OPERATION OF THE PAYMENT OF WAGES ACT AND RULES ON THE EASTERN BENGAL RAILWAY.

**100. Mr. Amarendra Nath Chattopadhyaya :** (a) Will the Honourable Member for Commerce and Railways please state when the Payment of Wages Act, 1936, and the Payment of Wages (Railways) Rules, 1937, came into operation on the Eastern Bengal Railway ?

(b) Where is the Supervisor, referred to in the Rules, and who is responsible for the check over the Eastern Bengal Railway stations and are his checks periodical or casual ?

(c) Who is the Provincial Government referred to in clause (j) of sub-section (2) of section 7 and section 13 of the Act, in regard to the Eastern Bengal Railway ?

(d) Has the Provincial Government referred to in part (c) above framed any rules regarding the deductions that can be made from the wages of an employee on behalf of the Co-operative Society of that Railway ? If so, what are they ?

(e) Is the Provincial Government required to publish the rules framed in this connection for the information and guidance of the non-gazetted staff and the Supervisor ? If so, has this been done on that Railway ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) The Payment of Wages Act, 1936, which was brought into force from the 28th March, 1937, and the Payment of Wages (Railways) Rules, 1937, which were promulgated on the 10th March, 1937, came into operation on the Eastern Bengal Railway *ipso facto* from the 28th March, 1937.

(b) The Supervisor of Railway Labour, whose headquarters are at Delhi, is the Inspector for the purposes of Payment of Wages Act and exercises such check as may be considered necessary by him under section 14 of the Act.

(c) I would refer the Honourable Member to section 24 of the Payment of Wages Act, 1936 (Act IV of 1936).

(d) Deductions from the wages of employees on the Eastern Bengal Railway are subject to the following conditions :

(i) that no deductions shall be made from wages by the Society without the consent in writing of the employee concerned, which may be given once generally and not necessarily on each occasion a deduction is made, and

- (ii) that deductions for the repayment of loans with interest and for the recovery of the price of stores issued to members of the society on credit, shall be limited to 50 per cent. of the wages of the member when deductions are made for one of these purposes only, and to 75 per cent. for both these purposes together if deductions are made simultaneously from one member for both purposes.

(e) The answer to the first part of the question is in the negative. The second part does not arise.

#### RECOVERY OF AMOUNTS FOR THE PURCHASE OF WATCHES, ETC., FROM THE EASTERN BENGAL RAILWAY SUBORDINATE STAFF.

101. **Mr. Amarendra Nath Chattopadhyaya :** (a) Will the Honourable Member for Commerce and Railways state whether it is a fact that provision has been made in the Payment of Wages Act, 1936, for the recovery of the amounts paid in advance by a railway administration for the purchase of watches, supply of oil, etc., from the wages of non-gazetted staff in receipt of wages less than Rs. 200 ?

(b) Is it also a fact that the District Loco. Superintendent, Eastern Bengal Railway, Calcutta, has issued Circular No. G/35, dated 7th April, 1937, in which orders have been issued that drivers whose average pay, including overtime, is less than Rs. 200 per mensem, should henceforth be supplied with watches, extra oil, etc., on cash payment while those in receipt of wages exceeding Rs. 200 can be supplied and the amount recovered from their wages ?

(c) If the answer to part (b) be in the affirmative, will Government please state whether it is in accordance with their policy ? If not, what action do they propose to take ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) Section 7 (2) (e) of the Payment of Wages Act, 1936, provides that the Central Government may authorise deductions for amenities or services supplied by the employer. No authorisation has been made for the purchase of watches or the supply of oil.

(b) Government have no information.

(c) This does not strictly arise but I shall arrange for a copy of the question and answer to be sent to the Agent of the Railway.

#### CONDITION IN THE RULES FOR THE RECOGNITION OF UNIONS.

102. **Mr. Amarendra Nath Chattopadhyaya :** (a) Will the Honourable Member for Commerce and Railways please state whether it is a fact that the Railway Department (Railway Board) in their letter No. 135-L, dated 5th January, 1933, to the President, East Indian Railway Muslim Employees Association, Calcutta, stated that it has always been a condition in the rules framed by Government for the recognition of Unions that every member of the class for which the Union caters must be eligible for membership of the Union before it can secure recognition ?

(b) Is it also a fact that a copy of the said letter was forwarded to the Agents of the Railways for information and guidance ?

(c) If the answers to parts (a) and (b) be in the affirmative, will Government please state if this policy is still in operation ? If not, when was it discontinued ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) Yes.

(b) Yes.

(c) Reply to the first part of the question is in the affirmative. The latter part does not arise.

#### APPLICATIONS INVITED FOR THE POST OF ASSISTANT INSPECTOR IN THE WATCH AND WARD DEPARTMENT OF THE EAST INDIAN RAILWAY.

103. **Mr. Amarendra Nath Chattopadhyaya :** (a) Will the Honourable Member for Commerce and Railways please state whether it is a fact that the Watch and Ward Department of the East Indian Railway, Calcutta, advertised in the Press inviting applications for the post of Assistant Inspector ?

(b) Is it a fact that before the Selection Board sat, letters No. W./E. 2/D., dated 17th May, 1937, were issued to several applicants advising them that " the vacancy has been filled up " ?

(c) Do Government propose to take any disciplinary steps against such official and will Government state the name of the person selected ?

(d) Is it a fact that the person selected has not the required minimum educational qualifications ? If not, what are his qualifications ?

(e) If the answers to parts (a) and (b) be in the affirmative, will Government please state if this policy is still in operation ? If not, when was it discontinued ?

**The Honourable Sir Saiyid Sultan Ahmad :** I am obtaining information and will lay a reply on the table of the House in due course.

#### GRANT OF FREE RAILWAY PASSES TO COMMUNAL BODIES OR ASSOCIATIONS.

104. **Mr. Amarendra Nath Chattopadhyaya :** (a) Will the Honourable Member for Commerce and Railways please state whether it is a fact that the Bengal Nagpur Railway granted free passes to the President and the Honorary General Secretary of the Anglo-Indian and Domiciled European Association for their visit to Kharagpur on the 6th January, 1937 ? Was the visit for a private purpose ?

(b) Do Government sanction such free passes to all such communal bodies as they sanctioned to the Anglo-Indian and European (domiciled) Association ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) and (b). Government have no information, but Agents have power to issue passes for non-railway employees when they consider it in the interests of the railway to do so.

#### DELAY IN PAYMENT OF WAGES ON THE EASTERN BENGAL RAILWAY.

105. **Mr. Amarendra Nath Chattopadhyaya :** (a) Will the Honourable Member for Commerce and Railways state if it is a fact that under the Payment of Wages Act, 1936, and the Payment of Wages

(Railways) Rules, 1937, the wages which include overtime must be paid before the seventh or tenth day, as the case may be, after the last day of the wage-period in respect of which the wages are payable ?

(b) If the answer to part (a) be in the affirmative, will Government please state whether this is in operation on the Eastern Bengal Railway ?

(c) Is it a fact that the District Loco. Superintendent, Calcutta, includes an estimated lump sum as overtime in the payment of wages and adjusts same the next month ? If so, are Government aware that this causes unnecessary additional adjustments monthly and confusion amongst the staff who cannot be expected to maintain account books to see whether they are paid the correct amounts after adjustments ?

(d) Do Government propose to take action in the matter and see that the non-gazetted staff are paid the correct amounts both in regard to pay and overtime ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) I would refer the Honourable Member to section 5 of the Payment of Wages Act, 1936.

(b) Government have no reason to believe that the Act and the Rules referred to in paragraph (a) of the question are not being observed on the Eastern Bengal Railway.

(c) As regards the first part, Government have no information but it is possible that the Eastern Bengal Railway Administration may be resorting to the practice of assumed wages and overtime to some extent in complying with the provisions of the Act. As regards the latter part, the reply is in the negative.

(d) Government do not consider that any action is called for.

#### **DELAY IN GIVING SERVICE CERTIFICATES TO *ex*-EMPLOYEES ON THE EASTERN BENGAL RAILWAY.**

**106. Mr. Amarendra Nath Chattopadhyaya :** (a) Will the Honourable Member for Commerce and Railways please state within what period after the termination of a non-gazetted employee's service from the Railway settlement in regard to pay, service certificate, Provident Fund and gratuity is to be made ?

(b) Is it a fact that the Eastern Bengal Railway do not send the service certificate of a discharged employee to him but wait till a written request is received when they after quite a long period send the same ?

(c) If the answer to part (b) be in the negative, do Government propose to examine the cases of guards Brassett and McGuire of the Traffic Department, Calcutta, and drivers Fratel and Reuben of the Locomotive Department, Calcutta, and see the dates on which they ceased to be in service and the dates on which the service certificates were sent to them ?

(d) Do Government propose to issue instructions to the Eastern Bengal Railway Administration that service certificates must be given to the *ex*-employees within a week after he ceases to be in service to enable him to seek employment elsewhere ? If not, why not ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) Generally speaking as soon as possible after the termination of service, except that in case of employees to whom the Payment of Wages Act applies, wages are paid according to the provisions of the Act.

(b) and (c). These are matters of detailed administration within the competence of the Agent, Eastern Bengal Railway, to deal with. I am, however, sending a copy of the question to the Agent for such action as he may consider necessary.

(d) Does not arise.

#### CONNECTION OF ETAH WITH A RAILWAY LINE.

**107. Pandit Sri Krishna Dutta Paliwal :** Will the Honourable Member for Commerce and Railways please state :

(a) if Government are aware that Etah is the only unfortunate headquarters of a district in the United Provinces which is not connected by any Railway and that the nearest railway station is 13 miles away from Etah ;

(b) if Government intend to connect Etah with some Railway , and

(c) if so, when ?

**The Honourable Sir Saiyid Sultan Ahmad :** (a) Yes.

(b) and (c). There is no proposal before Government for the provision of railway communication to Etah.

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#### STATEMENTS LAID ON THE TABLE.

*Information promised in reply to starred question No. 825 asked by Pandit Lakshmi Kanta Maitra on the 2nd April, 1937.*

#### GRADES OF COAL FIXED BY THE INDIAN COAL GRADING BOARD.

(a) Yes, if by doing so a general saving in Railway finance can be effected. The general policy of purchase is well-known to the trade. It is neither feasible nor practicable to advise the trade of the change in the purchase policy before tenders are invited.

(b) and (c). There is actually no grouping made of different collieries but coal of the same class is considered together at the time of deciding tenders as the quality varies so much from year to year.

(d) The question does not arise.

(e) Yes.

(f) A complete list of accepted tenders is always published in the *Indian Trade Journal* with the least possible delay.

(g) It would not be in the interest of the service to express an opinion on this question.



*Information promised in reply to starred question No. 47, asked by Mr. Badri Dutt Pande on the 24th August, 1937.*

**PRISONERS CONVICTED OR DETAINED FOR POLITICAL OFFENCES UNDER THE CHARGE OF THE GOVERNMENT OF INDIA.**

The number of persons convicted for political offences who are not confined in the Chief Commissioners' provinces other than the Andaman Islands is three.

*Information promised in reply to unstarred question No. 15 asked by Mr. Mohan Lal Saksena on the 25th August, 1937.*

**OFFICERS AND STAFF WORKING IN THE BROADCASTING DEPARTMENT.**

*Statement showing the names, designations, salaries and qualifications of the Officers and Staff of the Office of the Controller of Broadcasting.*

Names.	Designation.	Salaries.	Qualifications.
		Rs.	
Mr. Lionel Fielden ..	Controller of Broadcasting	2,100	
Mr. A. S. Bokhari ..	Deputy Controller of Broadcasting.	1,000	M. A. (Cantab). P. E. S.
Mr. C. W. Goyder ..	Chief Engineer ..	1,700	B. Sc., A. C. G. I.
Mr. Nawab Ali ..	Superintendent ..	440	M. A.
1. Mr. S. N. Sen ..	Assistant ..	200	B. Sc.
	Special pay ..	30	
2. Mr. Ataulleh Khan ..	Do. ..	150	B. A.
3. Mr. Bashir Ahmad Khan ..	Do. ..	140	Intermediate.
4. Mr. K. A. Narayanan ..	Do. ..	140	B. A.
5. Mr. B. N. Chaudhury ..	Do. ..	100	B. A.
6. Mr. R. R. Bhatnagar ..	Do. ..	245	Matriculate.
1. Mr. N. Visvanathan ..	Clerk, II Division ..	84	B. A. (Hons.).
2. Mr. S. V. Nataranjan ..	Do. ..	80	B. A. (Hons.).
3. Mr. Khurahaid Ahmad ..	Do. ..	96	B. A.
4. Mr. Masudul Hasan ..	Do. ..	108	B. A.
5. Mr. Ch. Susila Rao ..	Do. ..	80	B. A. (Hons.).

Names.	Designation.	Salaries.	Qualifications.
		Rs.	
1. Mr. G. Braganza ..	Clerk, III Division ..	62	Senior Cambridge.
2. Mr. Y. P. Kapila ..	Do. ..	62	B. A., M. Sc., LL.B.
3. Mr. I. U. Chistie ..	Do. ..	62	Intermediate.
4. Mr. S. M. L. Goel ..	Do. ..	62	B. Sc.
5. Mr. H. N. Pali ..	Do. ..	60	M. A., B. Com.
6. Mr. M. H. Haidery ..	Do. ..	64	B. A.
7. Mr. Rahmat Ali ..	Do. ..	66	B. Com.
8. Mr. M. A. Siddiqi ..	Do. ..	60	B. A.
9. Mr. S. Venkataramani ..	Do. ..	60	Intermediate.
10. Mr. B. P. Chopra ..	Do. ..	60	B. A.
11. Mr. S. B. Mehrotra ..	Do. ..	60	B. A.
12. Mr. J. P. Jain ..	Do. ..	60	B. A. (Hons.).
13. Mr. Harbans Singh ..	Do. ..	60	Matriculate.
14. Mr. A. V. Engles ..	Do. ..	60	Matriculate.
15. Mr. P. L. Gupta ..	Do. ..	60	B. A.
1. Mr. K. R. Chandru ..	Stenographer ..	135	S. L. C.
2. Mr. G. Natarajan ..	Do. ..	125	Intermediate.
3. Mrs. K. Langton ..	Do. ..	125	Senior Oxford Matriculation Standard III Class (Hons.).
Mr. Ghulam Mohuddin ..	Draftsman ..	40	Matriculate.
Mr. Mahabir Sahai ..	Publicity Assistant ..	100	M. A.

*Statement showing the Names, Designations, Salaries and Qualifications of the Officers and the Staff working in the Broadcasting Department.*

Name.	Designation.	Present Pay.	Qualifications.
PROGRAMME ESTABLISHMENT.			
		Rs.	
1. Mr. J. R. Stapleton ..	Station Director	1,000	
2. Mr. C. B. Sethna ..	Do. ..	825	..
3. Mr. Z. A. Bokhari ..	Do. ..	775	F.A., H.P. (Punjab) Administrative and Programme Training at B.B.C., London.
4. Mr. S. S. Niazi ..	Do. ..	350	B.A. (Hons.).
Mr. L. G. E. Clarke ..	News Editor and Editor, <i>Indian Listener</i> (Offg.).	950	
1. Mr. A. A. Advani ..	Assistant Station Director.	350	B.A. (London).
2. Mr. N. A. S. Lakshmanan	Do. ..	350	M.A. (Oxon).
3. Mr. A. K. Sen ..	Do. ..	350	B.A. Programme and Administrative Training at the B.B.C.
1. Mr. N. N. Mazumdar ..	Director of Programmes.	400	Matriculate.
2. Mr. Victor Paranjoti ..	Do. ..	250	M.A. (Hons.), F.I.G.C.M. England Rural Development and Administrative Programme Training at B.B.C.
3. Mr. Raahid Ahmad ..	Do. ..	250	M.A.
4. Mr. P. V. Acharya ..	Do. ..	250	M.A. Training at B.B.C.
1. Mr. A. K. Nimker ..	Programme Assistant.	150	High School Standard.
2. Mr. R. N. Sen ..	Do. ..	120	B.A.
3. Mr. B. K. Bhadra ..	Do. ..	150	B.A.
4. Mr. P. R. Sheorey ..	Do. ..	150	B.Sc. (Manchester).
5. Mr. A. S. Dholekar ..	Do. ..	210	
6. Mr. K. M. Iftikhar Ullah	Do. ..	150	Matriculate.
7. Mr. A. Dinkar Rao ..	Do. ..	150	Intermediate.
8. Mr. Malik Hasib Ahmad	Do. ..	150	B.A.

Name.	Designation.	Present Pay.	Qualifications.
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PROGRAMME ESTABLISHMENT—*contd.*

		Ra.	
9. Mr. D. S. Barq ..	Programme Assistant.	150	Intermediate.
10. Mr. Mohabat Khan ..	Do. ..	150	Intermediate.
11. Mr. Jugal Kishore ..	Do. ..	150	B.A.
12. Mr. S. C. Chakravarthi ..	Do. ..	150	B.A., B.L.
13. Mr. B. K. Nundee ..	Do. ..	150	B.Sc.
14. Mr. M. D. Nagarkar ..	Do. ..	150	B.A.
15. Mr. Uma Shankar ..	Do. ..	150	M.A.
1. Mr. Abdul Karim Khan ..	Announcer ..	100	..
2. Mr. Ilyas Ullah ..	Do. ..	100	B.A.
3. Mr. Raj Bans ..	Do. ..	100	M.A.
Mr. S. Gopalan ..	Research Engineer.	420	B.Com. (Eng).
1. Mr. S. C. Roy ..	Station Engineer	440	M.Sc., B.L.
2. Mr. T. K. Garudachar ..	Do. ..	365	M.A. Post Graduate Certificate in Elec. Technology of the Indian Institute of Science, Bangalore; Supplementary Certificate in Elec. Communication Engineering of the India Institute of Science.
3. Mr. B. C. Sil ..	Do. ..	300	M.Sc. with special study and Research in Wireless.
Mr. B. V. Baliga ..	Assistant Installation Engineer.	300	B.A., A.M.I.R.E. Certificate of Elec. Technology and Certificate of Communication Engineering of the Indian Institute of Science, Bangalore.
1. Mr. W. D. Coysh ..	Assistant Engineer.	300	Certificate of Proficiency in Radio Telegraphy, Magnetism and Electricity, Machine and Drawing.
2. Mr. D. S. Major ..	Do. ..	200	Matriculate. P. M. G.'s 1st class Certificate of Competency as Wireless Operator (1927 Convention).
3. Mr. N. N. Dutt ..	Do. ..	200	I.Sc. Holds Certificate of Competency as Wireless Operator.

Name.	Designation.	Present Pay.	Qualifications.
		Rs.	
4. Mr. A. C. Ramchandani	Assistant Engineer.	200	B.Sc. Eng. (London).
5. Mr. T. D. Chatterjee ..	Do. ..	200	B.Sc., Certificate of Elec. Technology and Certificate of Elec. Communication Engineering of Indian Institute of Science, Bangalore.
6. Mr. M. M. Khan ..	Do. ..	200	M.Sc., Diploma in Communication Engineering, Northampton Polytechnic Institute.
7. Mr. P. B. Sen ..	Do. ..	200	Matriculate. Qualified Wireless Telegraphist.
8. Mr. Chamar Lal ..	Do. ..	200	M.Sc.
9. Mr. B. J. Gulati ..	Do. ..	200	M.Sc., A.M.I.E.E. Graduate-ship Examination.
10. Mr. R. L. Suri ..	Do. ..	200	B.Sc.
Mr. K. P. Banerjee ..	Do. (Offg.)	200	B.Sc. (Eng.).
Mr. M. D. Madhekar ..	Do. (Offg.)	200	Intermediate Post master General's First Class Certificate of Competency (1912 Convention).
1. Mr. M. D. Madhekar ..	Technical Assistant.	130	Intermediate Postmaster General's Certificate of Competency First Class (1912 Convention).
2. Mr. P. P. Mugaseth ..	Do.	125	Electric Wireman's Certificate, V.J.T. and Government Certificate of Competency in Wiring, Class II.
3. Mr. J. Delima ..	Do. ..	125	High School Standard.
4. Mr. B. B. Banerji ..	Do. ..	105	BSc..
5. Mr. R. T. Ryan ..	Do. ..	100	High School Standard.
6. Mr. A. K. Bose ..	Do. ..	110	Matriculate. Had three years Secondary Electrical Engineering Course.
7. Mr. J. S. Rodericks ..	Do. ..	130	..
8. Mr. N. C. Sen ..	Do. ..	100	B Sc.
9. Mr. N. B. Mukherjee, ..	Do. ..	110	M.Sc.
10. Mr. K. P. Banerjee ..	Do. ..	110	B.Sc. (Eng.).
11. Mr. N. K. Banerjee ..	Do. ..	100	B.Sc. (Eng.)

Name.	Designation.	Present Pay.	Qualifications.
		Rs.	
12. Mr. P. R. Khanna ..	Technical Assistant	110	B.Sc. (Eng.).
13. Mr. M. L. Sastri ..	Do. ..	110	B.Sc. (Eng.). City and Guilds Final Examination City and Guilds Final Radio Engineering.
14. Mr. M. D. Chaturvedi ..	Do.	110	B.Sc. (Eng.).
15. Mr. K. L. Chopra ..	Do. ..	110	M.Sc.
16. Mr. B. R. Kapur ..	Do. ..	110	A. M. I. E. E. London. Diploma of Engineering from Mclagan College.
17. Mr. N. Sen Gupta ..	Do. ..	110	B.Sc.
18. Mr. K. S. Rangaswami Iyengar.	Do. ..	110	B.Sc. Eng. London.
19. Mr. D. D. Sarin ..	Do. ..	100	B.Sc. (Eng.).
20. Mr. Jai Chandra ..	Do. ..	110	M.Sc.
21. Mr. P. K. Dev ..	Do. ..	100	I.Sc., Diploma in Wireless Engineering, Chelmsford.
22. Mr. Aijaz Mohammad ..	Do. ..	110	M.Sc.
23. Mr. S. S. Kohli ..	Do. ..	110	M.Sc., Radio Communication City and Guilds Examination.
24. Mr. R. N. Mitra ..	Do. ..	100	Junior Technical Examination.
25. Mr. B. D. Ohri ..	Do. ..	100	M.Sc.
26. Mr. Sadiq Shah ..	Do. ..	100	B.Sc.
27. Mr. R. C. Sen ..	Do. ..	100	Holds certificate of competency of Wireless Operator, Certificate of Radio Communication by Chelmsford College.
28. Mr. Bashir Ahmad ..	Do. ..	100	B.A., Holds Certificate of Wireless Communication, V. J. T. Institute, Bombay.
29. Mr. M. S. Ramchandran	Do. ..	100	B.Sc., Certificate, of E. C. C. G. London Diploma Radio Engineering Marconi.
Mr. E. P. Gorwala ..	Technical Assistant (Offg.) (Permanent Mechanic).	100	High School Standard.
1. Mr. R. C. Paul ..	Mechanic ..	42	..
2. Mr. N. P. Das ..	Do. ..	30	Junior Technical Examination.

Name.	Designation.	Present Pay.	Qualifications.
		Rs.	
3. Mr. E. P. Gorwala ..	Mechanic .. (Appointed as Offg. Technical Assistant).	33	High School Standard.
4. Mr. Kartar Singh ..	Mechanic ..	30	..
5. Mr. Om Prakash ..	Do. ..	60	Matriculate. Completed five years' B. Course from the MacLagan Engineering College, Moghalpura.
6. Mr. Mohammad Ali ..	Do. ..	30	Passed the I Class Competency Examination proscribed for Foremen Electricians.
7. Mr. Hitkari Lal ..	Do. ..	33	High School Examination.
8. Mr. B. R. Sen Ved ..	Do. ..	33	..
Mr. H. N. Adarkar ..	Do. (Offg.)	30	High School Standard Passed 1st year course in the V. J. T. Institute Bombay.
1. Mr. M. B. Lal ..	Draftsman ..	40	
1. Mr. R. Periera ..	Accountant	250	Matriculate.
2. Mr. M. S. Venkatesan ..	Do. ..	148	B.A., G. D. A.
3. Mr. M. R. Baluja ..	Do. ..	136	..
4. Mr. Alla Uddin ..	Do. ..	100	Intermediate.
1. Mr. Raiz Ahmad ..	Head Clerk ..	100	Matriculate.
1. Mr. S. C. Bhounick ..	Clerk, Grade I	104	Matriculate.
2. Miss M. Sullivan ..	Do. ..	113	L. C. C. Examination.
3. Mr. F. R. Maloo ..	Do. ..	104	Matriculate.
4. Mr. Nazir Ahmad ..	Do. ..	95	Matriculate.
5. Mr. Ghulam Nabi ..	Do. ..	95	B. A.
1. Mr. N. F. Davar ..	Clerk, Grade II	81	Matriculate.
2. Mr. T. C. Banerjee ..	Do.	54	..
3. Mr. D. N. Mukherjee ..	Do.	48	Matriculate.
4. Mr. Amar Singh ..	Do.	40	Matriculate.
5. Mr. B. N. Sen ..	Do.	40	Intermediate.

Name.	Designation.	Present Pay.	Qualifications.
		Rs.	
6. Mr. B. B. Lal ..	Clerk, Grade II	40	Intermediate.
7. Mr. Prakash Chandra ..	Do.	40	Matriculate.
8. Mr. Ali Ibrahim Syed ..	Do.	45	High School Standard.
9. Mr. Wali Dad ..	Do.	70	Matriculate.
10. Mr. Mohammad Aslam Malik.	Do.	40	
11. Mr. Mohammad Ayub	Do.	40	Intermediate.
12. Mr. S. N. Naqi ..	Do.	40	B. Com.
13. Mr. Ratenshwar Dayal	Do.	40	M. Sc.
14. Mr. V. V. Iyer ..	Do.	45	..
15. Mr. Kartar Singh ..	Do.	40	Matriculate.
16. Mr. A. R. Subhani ..	Do.	40	Matriculate.
17. Mr. Bashir Ahmad ..	Do.	70	Matriculate.
18. Mr. Abul Khair ..	Do.	40	Matriculate.
Mr. Fazal Karim ..	Clerk ..	30	Matriculate.
1. Miss C. H. Pilcher ..	Stenographer	125	..
2. Mr. C. S. Rao ..	Do.	130	S. S. L. C.
3. Mr. P. Ramaswami ..	Do.	60	
4. Mr. Miraj Uddin ..	Do.	50	Post-matric.
5. Mr. M. H. Firthaus ..	Do.	75	Matriculate.
1. Mr. N. K. Sarkar ..	Sub-Editor ..	160	
2. Mr. K. S. Mallick ..	Do. ..	150	M.A.
3. Mr. C. J. Currian ..	Do. ..	150	B.A.
1. Mr. S. M. Israil ..	Telephone At- tendant.	30	Matriculate.
2. Mr. Mohammad Ameen	Do.	30	Intermediate.
3. Mr. Abdul Qayyum ..	Do.	30	Matriculate.
1. Mr. A. Joseph ..	Motor Driver ..	60	
2. Mr. Satya Prasad ..	Do. ..	42	
3. Mr. Mohamad Abdulla	Do. ..	40	..



Name.	Designation.	Present Pay.	Qualifications.
		Ra.	
4. Mr. Najmul Hussain ..	Motor Driver ..	40	
5. Mr. R. Pal .. ..	Do. ..	40	
6. Mr. Mohammad Ibrahim Desai.	Do. ..	40	
7. Mr. Mohammad Yakub	Do. ..	40	..
8. Mr. Abdur Rahman Khan	Do. ..	40	
<i>Programme Probationers.</i>			
1. Mr. N. S. Ramachandran	Probationer ..	50	M.A.
2. Mr. A. Qutb .. ..	Do. ..	50	M.Sc.
3. Mr. N. S. Bhattacharya ..	Do. ..	50	Matric.
4. Mr. Gulam Ali .. ..	Do. ..	50	B.A. (Hons.)
<i>Technical Probationers.</i>			
1. Mr. S. K. Mukherjee ..	Probationer ..	50	Licenciate in Electrical and Mechanical Engineering.
2. Mr. Keshava Chandra ..	Do. ..	50	M.Sc.
3. Mr. S. S. Aiyar .. ..	Do. ..	50	B.Sc. (Eng.)
4. Mr. Om Prakash Gulati	Do. ..	50	M.Sc.
5. Mr. V. Balasubramanyam	Do. ..	50	B.Sc. (Eng). Final Examination of City and Guilds, London, Proficiency Certificate in Electrical Communication Engineering, Indian Institute of Science, Bangalore.

*Information promised in reply to unstarred question No. 19, asked by Mr. Suryya Kumar Som on the 26th August, 1937.*

#### JAMALPUR STATION ON THE EAST INDIAN RAILWAY.

(b) The Agent, East Indian Railway, reports that the number of passengers and weight of goods carried to and from Jamalpur Railway Station during the three years 1933-34 to 1935-36 were as follows :

Year.				Number of passengers.	Tons of Goods.
1933-34 .. ..	..	..	..	4,99,967	182,917
1934-35 .. ..	..	..	..	5,61,665	232,840
1935-36 .. ..	..	..	..	5,97,181	356,838

*Information promised in reply to unstarred question No. 25 asked by Mr. Mohan Lal Saksena on the 26th August, 1937.*

### ACTION TAKEN ON RESOLUTIONS PASSED BY THE INDIAN LEGISLATIVE ASSEMBLY.

The Honourable Member is referred to the statement laid on the table by the Honourable Sir Brojendra Mitter on the 8th February, 1933, promised in reply to starred question No. 1174, asked by Mr. M. Maswood Ahmad on the 14th November, 1932, to the reply given to Mr. M. Asaf Ali's unstarred question No. 223 asked on the 25th March, 1935, to the statement laid on the table by the Honourable Sir Nripendra Nath Sircar on the 30th March, 1935, promised in reply to starred question No. 656 asked by Mr. Mohan Lal Saksena on the 5th March, 1935, and to the statement laid on the table by the Honourable Sir Frank Noyce on the 20th March, 1937, promised in reply to starred question No. 548 asked by Mr. Mohan Lal Saksena on the 8th March, 1937, which give the required information up to the Simla Session, 1936.

The information in respect of the Resolutions passed by the Legislative Assembly and the action taken on each of them during the Delhi Session, 1937, is given in the following statement :

*Statement showing the Resolutions adopted by the Legislative Assembly during the Delhi Session, 1937, and action taken by Government thereon.*

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.
1	26th January, 1937.	The Honourable Sir Frank Noyce.	Draft convention of the International Labour Conference regarding maintenance of rights under invalidity old age and widows and orphans insurance.	Department of Industries and Labour.	In accordance with the resolution adopted, the convention was not ratified.
2	Do. ..	Do. ..	Draft convention of the International Labour Conference regarding annual holidays with pay.	Do. ..	In accordance with the resolution adopted, the convention was not ratified and no effect was given to the recommendations.
3	Originally moved on the 1st October, 1936, and the discussion concluded on the 29th January, 1937.	Dr. Khan Sahib.	Interference from public servants in the ensuing elections.	Home Department.	The action taken by Government was explained during the course of the debate. No further action was taken or was necessary on the Resolution adopted.
4	10th February, 1937.	The Honourable Sir Frank Noyce.	Creation of a separate Road Fund for the purposes of Road Development.	Department of Industries and Labour.	The resolution has been accepted by the Governor-General in Council and the Road Fund is now being administered in accordance with this resolution.

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.
5	19th February 1937.	Sir Girja Shankar Bajpai.	Emigration to Burma.	Department of Education Health and Lands.	The resolution approved of a notification legalising emigration, for purposes of unskilled work, to Burma after its separation from India. The notification in question was duly issued.
6	2nd April, 1937.	Mr. Ghiasuddin. G.	Introduction of Homœopathic treatment in Government Hospitals and recognition of Homœopathic Colleges in India.	Do.	The Government of India agreed with the views expressed by their spokesman in the course of the debate and decided that no action could be taken to give effect to the recommendations of the Legislative Assembly in Centrally the administered areas. Copies of the records of the discussion on the Resolution were, however, forwarded in June, 1937, to Provincial Governments.

*Information promised in reply to parts (b), (f) and (g) of starred question No. 259 asked by Mr. Mohan Lal Saxena on the 1st September, 1937.*

#### MAINTENANCE OF THE DEOLI CAMP JAIL.

(b) There is a library building in each of the five camps in the Jail. Detenus purchase a large number of periodicals in English and Bengali, and each Camp has an opportunity of reading all of them. There are no books which are the property of the Jail : but about two hundred books are obtained at Government expense every month from the Imperial Library, Calcutta, the Commercial Library, Calcutta, and the Municipal Library, Ajmer. Detenus are permitted to order any particular book from these Libraries.

(f) 47.

(g) 29 during the last six months. 58 detenus were granted home leave during the same period.

*Information promised in reply to a supplementary question to starred question No. 481 asked by Mr. C. N. Muthuranga Mudaliar on the 13th September, 1937.*

#### PROTECTION TO THE GLASS INDUSTRY.

Copy of letter No. 312-T. (6) 37, dated Simla, the 15th June, 1937, from R. K. Nehru, Esquire, I.C.S., Offg. Deputy Secretary to the Government of India, Department of Commerce, to all applicant firms, etc.  
firms interested in industry but from whom no application has been received.

With reference to your representation for assistance against Japanese competition,

In connection with a suggestion that has been made that the industry in which you are interested is in need of assistance against Japanese competition, I have the honour to request you to be so good as to submit detailed information on

the points noted below regarding the industry. The information should reach the Government of India not later than 15th July 1937 :

- (1) The main centres in India where the industry is carried on.
- (2) The principal markets in India for your products.
- (3) (a) The total Indian production—(i) quantity, (ii) value—during each of the three financial years, 1934-35, 1935-36 and 1936-37.
- (b) The annual output of your factory during the same periods.
- (c) The maximum capacity of your plant.
- (4) The total imports into India of articles similar to those manufactured by the Indian industry—(a) quantity, and (b) value—during each of the three financial years 1934-35, 1935-36 and 1936-37. Separate figures to be given for (i) Japan, and (ii) all other countries.

[NOTE.—If possible give the names of the particular brands or marks of the imported articles which are competing with your products.]

- (5) The total exports, if any, from India of the articles manufactured by the industry—(a) quantity, and (b) value—during each of the financial years 1934-35, 1935-36 and 1936-37.
- (6) (a) The total amount of capital invested in the Indian industry.
- (b) The amount of capital invested in your own concern.
- (7) (a) The total amount of (a) unskilled labour, (b) skilled labour, and (c) higher technical and supervisory staff employed by (i) the Indian industry, and (ii) your own concern.
- (b) The total amount of wages paid to each of the above three classes by (i) the Indian industry, and (ii) your own concern.
- (8) The cost of your production per unit of product for the latest year for which figures are available.

[NOTE.—(a) If different kinds or classes of articles are produced, the cost of production should be given per unit of the most typical kind or class of article produced by the industry.

- (b) This figure should be inclusive of (i) cost of materials, (ii) cost of labour, (iii) power and fuel, (iv) repairs and maintenance, (v) supervision and office charges, (vi) packing, (vii) miscellaneous, but should exclude (viii) depreciation, (ix) interest on working capital, (x) profit. The last 3 items should be shown separately.]
- (9) (a) The amount of capital required under normal conditions to instal a factory of reasonable dimensions in India.
- (b) The approximate annual output which such a factory would yield, working at full capacity.
- (10) (a) The average c. i. f. price in India currency of articles imported
  - (i) from Japan,
  - (ii) from other countries, which compete with the Indian articles for which costs have been submitted :
    - (i) January 1934, (ii) July 1934, (iii) January 1935, (iv) July 1935, (v) January 1936, (vi) July 1936, (vii) January 1937, (viii) April-May 1937.
- (b) If information regarding c. i. f. prices is not available, the wholesale market prices for these periods should be given, naming the market to which they refer and the amount of duty and discount being shown separately.
- (11) (a) Are the articles produced by your industry consumed by other industries as their raw material ? If so, what are these industries and how far would increased duties affect their costs ?

- (b) Are any of the raw materials used by your industry produced or grown in India? If so, what are these materials and to what extent are they used in your industry?
- (c) Does the industry provide subsidiary occupation for the Indian agriculturist to any substantial extent?
- (12) (a) What are the classes of goods in respect of which you consider that assistance is required?
- (b) What rates of duties do you consider necessary in addition to the existing duties?
- (13) Who are the principal consumers of your products in India; are they mainly rural or urban?
- (14) How far would the rates of duty proposed by you place a burden on these consumers?

2. If after examining your replies to the Questionnaire it is found that further information is necessary, you may be required to depute a representative for personal consultation at Simla.

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*Copy of letter No. 312-T. (6)|37, dated Simla, the 26th July, 1937, from B. K. Nehru, Esquire, I.C.S., Officer on Special Duty, Department of Commerce.*

SUBJECT :—Assistance to Minor industries in India against Japanese Competition.

I am directed to forward a copy of my letter No. 312-T. (6)|37, dated the 26th July 1937, addressed to certain firms in India, for your guidance in preparing replies to this Department's Questionnaire on the above subject.

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*Copy of letter No. 312-T. (6)|37, dated Simla, the 26th July, 1937, from B. K. Nehru, Esquire, I.C.S., Officer on Special Duty, Department of Commerce.*

I am directed to refer to your letter No. \_\_\_\_\_, dated the 193 \_\_\_\_\_, in which you have replied to the various points raised in the Questionnaire issued to you in connection with your request for assistance against Japanese competition.

2. In reply to paragraph 8 of the questionnaire, you have given your aggregate unit costs of production, without specifying the exact proportions represented by the various items mentioned in note (b) to the paragraph. I am to request that *detailed* unit costs may be furnished at a *very early date* in respect of each class of article produced by you which comes into competition with Japanese products, and that in particular, the names and the cost of the various raw materials used by you in each case may be given separately. If any changes in the unit costs of production have taken place in recent years, these should be specified separately and the reasons for the changes should also be given.

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## MOTIONS FOR ADJOURNMENT.

### FIXATION OF THE PRICE OF SUGAR-CANE.

**Mr. President** (The Honourable Sir Abdur Rahim) : There is a motion for adjournment from Mr. Ram Narayan Singh :

“for the purpose of discussing a definite and specific matter of urgent public importance of recent occurrence, namely, the failure of the Sugar Tariff Board in getting itself properly advertised to the public of Bihar during its recent enquiry on the 11th instant and in not recording the evidence of the local Kisan representatives, the most proper persons to speak on the subject of fixation of the price of sugar cane.”

The Tariff Board is the authority vested with the power to make the inquiry, and it is for them to decide how to advertise their work to the public of Bihar, and also what witnesses to call. Is there any precedent for such a motion of adjournment?

**Mr. Ram Narayan Singh** (Chota Nagpur Division : Non-Muhamadan) : In view of the fact that we shall be discussing this question on the 20th, next Monday, I shall press my point on that day. I withdraw the motion.

#### INQUIRY ABOUT THE BIHTA RAILWAY DISASTER.

**Mr. President** (The Honourable Sir Abdur Rahim) : There is another motion for adjournment in his name. He wishes to move :

“the adjournment of the business for the purpose of discussing a definite and specific matter of urgent public importance of recent occurrence, namely, the Government decision to hold an inquiry about the Bihta Railway Disaster at Allahabad and not on the place of the occurrence.”

Is that a matter of urgent public importance ?

**Mr. Ram Narayan Singh** : With regard to this motion also, I have just now received legal advice that I should watch the proceedings of the inquiry, and that if sufficient local inspection is not conducted, then I shall take the opportunity to press this motion. I withdraw this motion.

**Mr. President** (The Honourable Sir Abdur Rahim) : I disallow the motion.

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#### THE MOSLEM PERSONAL LAW (*SHARIAT*) APPLICATION BILL.

**Mr. President** (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the following motion moved by **Mr. H. M. Abdullah** on the 9th September, 1937 :

“That the Bill to make provision for the application of the Moslem Personal Law (*Shariat*) to Moslems in British India, as reported by the Select Committee, be taken into consideration.”

**Mr. George Joseph** (Madura and Ramnad *cum* Tinnevely : Non-Muhammadan Rural) : Sir, in this matter, I enter on the discussion with a certain amount of unhappiness. I know that the view of the Muslim Members, if not all of them, of the vast majority of them, is in favour of the passing of this Bill as it stands, subject to such amendments as may be accepted by the House later on. Therefore, I should be extremely sorry if, in anything I should say, I should seem to go against the wishes of the Muslim Members who are the only people concerned by the passing of the Bill, if it is passed. But I had better explain the reason of what I may call my position of discomfort. I strongly hold the view that in all these matters it is better not to have codification in favour of maintaining what may be called the personal law of the various religions and communities in this country. I strongly hold the view that as far as succession at least is concerned it should be a matter of territorial law in which it should be possible for anybody who wants to know the law to look up some Code and really have the succession maintained in terms of that Code. I know that as a matter of history, on account of the peculiar circumstances under which the present administration came into India, the original British judges and administrators, not themselves starting on the basis of building up a state or maintaining an Empire, were quite content to go on the basis of the personal law : they knew the personal law of the Hindus, and the personal law of the Muslims ; and all that they did was, through their officials and with the advice of *Shastris* and persons learned in the *Shariat*, to administer the law as they were advised ; and things

[Mr. George Joseph.]

have gone on that basis now for the best part of 150 years. But I do submit though that was suited to the long long ago, it should now be possible for this Government or this Legislature to lay down the foundations of the law of succession quite independently of what community a certain individual belongs to. Though historically there was justification for the maintenance of this kind of personal law, now I submit that the time has long gone past and I can only regard it as a misfortune that in the year 1937 there should be any section of the community which really wants to maintain a personal law—one for Muslims, one for Hindus and another for the rest. It would have been very much better and more fortunate—it is certainly necessary that some day or other this House should take up the responsibility of codifying the law of succession in India, not with reference to the religion of the persons concerned, but with reference to the territory that they inhabit: that is the only basis on which we can settle this question of succession. But as far as this particular Bill is concerned there comes in my position of difficulty as I explained, when I find that the Muslims want this particular thing to be put through: as far as that question is concerned, I, not being a Muslim, can really have no right to offer any opinion which might be persuasive either this way or that. I certainly have a vote, but I should certainly exercise an act of self-restraint by declining to say anything in this matter if I find that there was a definite difference of opinion amongst the Muslim Members of the House. But as I understand all Muslim Members are inclined to favour this Bill, I should certainly not come in the way of their desires being carried out. Apart from that, there is this other difficulty also. I do not think that I have understood the whole Bill but to the extent that I understand it, one of the consequences of the Bill being carried would be that a good deal of what may be called customary law as observed by Muslims, in different parts of the country, would practically be wiped out in favour of what may be called the rigid and orthodox interpretation of Muslim law as laid down in their sacred books. I am particularly thinking of one community in my part of the country—I mean the community known as Moplahs, amongst whom—I do not say it is true with reference to all Moplahs, but with reference at least to a considerable section of them, they observe what is called the Marumakkathayam law, the lineage being traced, not through the father but, through the mother.

Now, I have no doubt whatever if this Bill is passed, as far as that section of the community is concerned, the change that will be brought about will be of a revolutionary character. I dare say that they may be willing to accept revolution as one of the things they must accept—I do not doubt that for a minute: but I have no doubt whatever that the change will be of a revolutionary character. Whether the necessity that is to be put on their community of having to face this new change is really compelling or not, it is for them and for the Muslim Members of the House to decide. But a suggestion that has been put, especially among Members of my Party, was that one consequence of the passing of this Bill would be that the position of the women members of the community would certainly be improved. That may be true with reference to customary laws in other parts of the country, but as far as the Moplahs are concerned, who are governed by the Marumakkathayam law, I am persuaded, I am perfectly satisfied in my mind, that the position of a lady

in a Marumakkathayam family is infinitely stronger than the position that is sought to be brought about by this Bill. There, descent is traced through women ; they have got a right to manage property ; they do manage property in large families even today ; and, therefore, I suggest, that to say that the interests of women under this Bill will be better on the Marumakkathayam application of the Moslem law in Malabar, is not sound ; but even then as I have already explained, though I personally stand for a territorial law of succession, and though I feel personally that the position of women in the Marumakkathayam sections of the Moplah community would not be made better, I certainly shall not come in the way of the passing of this Bill because I feel that the Moslem Members of the House are really for it.

**Maulana Zafar Ali Khan** (East Central Punjab : Muhammadan) : May I put one question to the Honourable Member ?

**Sir George Joseph** : I really do not know whether I can answer the question.....

**Mr. President** (The Honourable Sir Abdur Rahim) : Order, order : the Honourable Member cannot then put any question. He will resume his seat.

**Syed Ghulam Bhik Nairang** (East Punjab : Muhammadan) : Sir,  
 12 Noon. there was hardly any necessity for me to address the House this morning on the motion which is under consideration. But the speech made by the last speaker has put the matter in a very curious light and it is necessary that I should address a few remarks to the House explaining the position of the Muslim Members and the real significance of the Bill which is now being considered by the House. The Honourable speaker who has preceded me has really taken up a very anomalous position ; he has, in effect, spoken against the Bill, but voted in favour of it. He says he has no objection to the Bill, and if the Muslim Members of this House are agreed as to the advisability or necessity or importance of the measure being passed, he will not stand in their way, in fact he will vote in favour of the measure, and yet he has made some remarks against the Bill. I may submit that the ideal state of things of which he is thinking today—that in India in the year of grace 1937 it is a misfortune that we are thinking of passing a Bill like the one before the House—I submit that this ideal state of things, which he is thinking of really, does not exist in India in the year of grace 1937. He says that all laws should be territorial laws, but he forgets that we are today governed by certain laws, the foundation stone of which was laid in the year 1857 by the famous Proclamation of Her late Majesty Queen Victoria, wherein it was guaranteed to the peoples of India that they shall have full religious liberty, full social liberty, their laws and their customs shall be fully respected and nothing shall be done to abrogate them. We have made it amply clear in the speeches which have been made so far in the House about the Bill, that this Bill is based on the Muslim Personal Law, otherwise called the *Shariat*. That *Shariat* is the sacred Muslim Law. It is based on the holy Koran and on express injunctions of the Holy Prophet and on deductions from the various actions taken by Him on various occasions in certain circumstances. Those are the foundations of the sacred Muslim Personal Law. And if the Honourable Member means to say that it is a misfortune that in the



[Syed Ghulam Bhik Nairang.]

year of grace 1937 there is a community in India which professes to believe in a religion called Islam, which professes to believe that the Holy Koran is the word of God, and that the Great Personage who handed that book to the Muslim community, the Holy Prophet—they believe him to be inspired by God and sent by God for the purpose of reclaiming lost humanity—if he thinks that all that is a misfortune, then I can say that we can never agree with him.....

**Mr. George Joseph** : I did not say that, nor did I mean it.

**Syed Ghulam Bhik Nairang** : I know he never said that, but what he said amounts to this.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member need not read all that into what he has said.

**Syed Ghulam Bhik Nairang** : I have already said that he never said this much.

**Mr. George Joseph** : I never meant it either.

**Syed Ghulam Bhik Nairang** : This is the inevitable result of what he said. Anyhow, when in the year of grace 1937 there is a community numbering as many as eight crores in India which holds Islam to be the only true religion in the world, which holds the Holy Koran to be the only safe guide in all matters, secular, moral, spiritual and intellectual, which holds that it is the bounden duty of every Muslim to follow every injunction of the Holy Prophet and every injunction of the Holy Koran, then, in spite of my Honourable friend the last speaker, it is natural that we should have a Bill of this kind even in the year of grace 1937. While on this subject, I may be allowed also to correct another misconception which was created by some remarks of my Honourable friend, Sir Muhammad Yamin Khan ? He appeared to think or rather apprehend that if the word " *Shariat* " is allowed to stand within brackets in the Bill as it is, it will mean that every Muslim, irrespective of the school of law which he may be professing to follow, will be bound to follow the Hanafi School of law.

**Sir Muhammad Yamin Khan** (Agra Division : Muhammadan Rural) : I did not say that. My Honourable friend, Mr. Jinnah, said whether I meant that. I did not say that at all.

**Syed Ghulam Bhik Nairang** : Anyhow, I want finally to remove all apprehension from his mind by citing to him a few words from the Holy Koran itself. The word " *Shariat* " is derived from the root " *Shara'a* ". To be quite precise, lest I should commit a mistake in quoting the sacred text, I will read from a written note. The Holy Koran says :

" *Shara'a lukum min-al-dini ma Wassa  
bihi Nuhan wallahi Auhaima ilaika  
wa ma wassaina bihi Ibrahim  
wa Musa wa Isa an aqimul-dina  
wa la tatafarragu fih.* "

" God has laid down for you as a religious law what he laid down for Noah and the law which we have revealed to thee and to Abraham and to Moses and to Jesus, so that you may uphold the law and not create

dissensions therein." So that the word "*Shara'a*" occurs about the Muslim Personal Law in the Holy Koran itself, and the word "*Shariat*" is derived from "*Shara'a*". Therefore, my Honourable friend, Sir Muhammad Yamin Khan, need have no apprehension on that point and we are quite safe when we call Muslim Personal Law by the name, *Shariat*.

**Sir Muhammad Yamin Khan :** On a point of personal explanation, Sir. What I meant was not that there is not a religious law. What I mean is that *Shariat* can be only one, it cannot be two, it cannot be three, it cannot be four. When you use the word "*Shariat*" that must imply that there is only one law, but when you come to say Personal Muslim Law, there are so many personal Muslim laws which are for every sect. Therefore, the word "*Shariat*" does not cover the words "*Muhammadan Personal Law*".

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member is now making a speech, and I cannot allow that.

**Maulana Zafar Ali Khan :** I must start at the outset with declaring that we Muslims, who number more than eight crores in India, have got a law of our own, before which we bow down in utter humility and with full submission. That law is the law of Islam. With regard to this law, the book, which we believe is the final message of Lord Almighty to mankind, says : "*Innaddina Indallah-i-Islam*" (the Faith with the Lord is the faith of Islam).

Islam means submission to the Will of the Almighty and the Almighty has ordained that so far as the Muslim nation is concerned it will be governed according to certain principles which are fixed and will remain fixed till the end of this world. This law is perfect and that section of the law with which we are concerned, at the present moment, is the personal law of the Mussalmans. The personal law refers to such questions as divorce, separation, succession and the like. This is a sort of domestic law for us and unless we come under this law there is a great danger of the Moslems losing their solidarity and national unity. Unfortunately, when we lost our empire, we came under other laws. I remember many many years ago when a charter for the administration of Bengal and Bihar was taken by the East India Company from Shah Alam, who stipulated that in the administered areas the law of Islam shall hold. That law was administered in those days for some time. The Koran was translated, the *fiqh* was translated and there were Kazis and Muftis but, when Mussalmans lost all their power and solidarity, disintegrating influences set in and the law of Islam fell into desuetude. Then came the great change of 1857. I should say it was the day of mourning for the law of Islam in this country. People began to be governed by customs and usages. Islam does not believe in these customs and does away with all these usages. What has been laid down in the Koran cannot be neutralised by the effects of custom and usage. In this country, we all of us did not come from Arabia or from Turkestan. Millions and millions of us were converted to the faith of Islam by the inherent beauty of this religion. Look at me. I am looked upon as a great communalist but my great-great-great grandfather was a kafir, an infidel, but when Islam came into our family we became the strictest of Mussalmans. So also the forefathers of many millions of Mussalmans were Hindus. They inherited Hindu usages and customs from their

[Maulana Zafar Ali Khan.]

forefathers but when Islam came, with one sweep, it did away with all these old customs and usages. Those customs, however, linger still and as there is no political power behind the faith of Islam just at the present moment, all those people who indulge in these customs are allowed to go on in the merry way. It was not for nothing that Akbar said :

*" Government ki khair yaro manao.  
Galai men jo utren woh tanen urao  
Kahan aisi azadian thin muyassar  
Anahag kaho aur phansi na pao."*

**An Honourable Member :** Please translate.

**Maulana Zafar Ali Khan :** You Congressmen who talk of Hindi, Urdu and Hindustani ought to know it.

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member ought to address the Chair.

**Maulana Zafar Ali Khan :** I will translate. It means : Long live this Government, which permits you to sing any song in any tune you like. You are at perfect liberty to declare " I am God Almighty " as for this blasphemy you will not be hanged ".

Sir, there are hundreds of thousands of men in the Punjab whose law of succession is permeated with Hindu sentiments. They like to remain under these laws but when any leader of religion convenes a meeting, ten thousand men gather together. He calls on them : ' You believe in the laws of the Koran or believe in Customs '. They say : ' We believe in the law of Koran ', but as there is no law of Koran they can find a pretext to carry on their life under the customs which are obtaining at the present moment. This Bill is intended to do away with those customs, so far as the law of succession is concerned. My friend, Mr. George Joseph, when he talked of the law of succession said that personal law was imperfect and this imperfection he applied to the law of Islam also. I do not agree with him. He must remember that the Congress says that it represents the Muslims as much as it represents the Hindus. The present movement of mass contact has been started on the same plea. The President of the Congress has wanted the Muslims to come into his fold but if the President of the Congress wants the Muslims to come into the Congress fold, he must respect the laws of Islam and the Koran. So far as our personal law is concerned, Congressmen will have to vote with us and if they remain neutral, then they have no business to talk of mass contact and ask us to join the Congress. I should like the Leader of the Opposition to explain his position with regard to this Bill. From their point of view, it may be imperfect. From our point of view, it is perfect. If only they consult the two or three Muslim Members in their fold they will agree with me. If you want us to join hands with you and emancipate this land from foreign bondage, then you will have to say ' aye ' to what we say. Islam is unity of God, belief in the Prophet, prayer five times a day, 30 days fast in a year and pilgrimage at least once in a lifetime. If you don't allow us to live our life according to our principles and interfere in our domestic life, there is a parting of the ways. We cannot join you. But if you want us to help you to carry on

the administration of this country according to the best interests of both Hindus and Mussalmans, you will have to appreciate our view point and if you don't there are you and here are we.....

**An Honourable Member :** And we above all !

**Maulana Zafar Ali Khan :** And God above all. When an Englishman says something, you say it is reasonable. The other day you said, down with them, kick them out, and yesterday you sided with them and you became toadies. (Laughter.)

**Mr. Sham Lal** (Ambala Division : Non-Muhammadan) : Sir, I object to that expression.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member should not use that expression ; he should withdraw it.

**Maulana Zafar Ali Khan :** Do you mean the word ' toady ' Sir ? !

**Mr. President** (The Honourable Sir Abdur Rahim) : Yes.

**Maulana Zafar Ali Khan :** Alright, Sir, they are not toadies, I withdraw that word if they get offended.

**Mr. S. Satyamurti** (Madras City : Non-Muhammadan Urban) : Sir, my friend should withdraw it unconditionally ; it is an unparliamentary word. He says he will withdraw it, since some friends get offended. It is an unparliamentary expression, and, therefore, he should withdraw it unconditionally.

**Mr. President** (The Honourable Sir Abdur Rahim) : He has withdrawn it.

**Maulana Zafar Ali Khan :** I have withdrawn the word " toady ".

Sir, this Bill as it has emerged from the Select Committee has our approval, and the Leader of the Independent Party will place a few amendments before the House, and we all agree with those amendments. Our point of view will be before you. Sir, I hope that the Bill will be passed. I hope the European Group will not put a spoke in the wheel. I trust the Government Benches too will not interfere with free voting, and I also hope that my friends of the Congress Group, for whom I have still a soft corner in my heart,—because we may come together, we will come together,—I will draw you like a magnet,—I will draw you.....

**Pandit Badri Dutt Pande** (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : By your arrogance and anger ? You ought to be humble.

**Maulana Zafar Ali Khan :** If you are annoyed with what I have said, I can't help,—anyway, I hope my friends of the Congress Party will rise to the full height of their status and prove to the world that they are what they claim to be.

**Dr. G. V. Deshmukh** (Bombay City : Non-Muhammadan Urban) : Sir, I make no apology for taking part in this debate, for, in my opinion, the question is not one of this political party or that political party. The question is one which affects forty millions of Indian women, my sisters, and, therefore, all these outside considerations of either party or politics are absolutely irrelevant and verge on the vulgar. Sir, I have always maintained that when one half of the body is paralysed, then the body

[Dr. G. V. Deshmukh.]

cannot function, and what applies to human body equally applies to society. When one half of the society is paralysed by its not recognising the economic status of women, then I say that that society will not and cannot progress. It does not matter whether it is Hindu society or Muhammadan society or any other society. (Hear, hear.) And in the 20th century, it is up to us, who have any pretensions to call ourselves educated or civilized, to see that the other half of the society has an equal status to the male half of the society. If we cannot recognise it, then let us shut up our shop, let us shut up everything that is put forward in the name of civilization and progress. Therefore, I say, Sir, that this Bill which in principle gives economical status to one half of the society has my whole-hearted support. (Hear, hear.) What I say is this that, if today the Muhammadan society progresses, in the future every society in India will follow the same example,—not that in Hinduism the principle does not exist. On account of custom, and more even than custom the British Courts' customs, the customs have crystallised into law, and thus the chilling hand of customs has barred all progress of society of womenfolk so far as India is concerned. I, therefore, think, that unless the female half of the society progresses, unless this paralysis, or what we in medical term call hemiplegia, of the Indian society disappears by progressive and enlightened legislation, there is no hope, and it is futile to say we will build up a nation. Therefore, I say, this example will also be followed by other societies, and the women folk will get the same economical status with that of the males in the country, and in this way the future nation of India will be built. This measure, therefore, Sir, so far as the principle of the Bill is concerned, has my whole-hearted support. (Hear, hear.)

**Maulana Shaukat Ali** (Cities of the United Provinces : Muhammadan Urban) : Sir, I will not try to deal with the legal aspect of this question, because I admit I do not know the territorial law well, nor do I know the Islamic law well.

**An Honourable Member** : You are a Maulana.

**Maulana Shaukat Ali** : Yes, they gave me the title of Maulana, because I did some little work for Islam and my Muslim brethren during the Great War, we did render some service to Islam, and our Islamic brethren appreciated our humble services, and they gave us the right to be called "Maulana". I am like an ordinary Mussalman—a man in the street—who believes in the Holy Koran from A to Z, from "bay" to "seen" and I believe in every word of the grand teachings of the Koran ; it has made us good fathers, good sons and good husbands in every possible way ; it makes us to lead purer life, a healthier life, but I have no right to impose my views on others. But there is one thing certain. Every Muslim who is governed by the law of primogeniture, admits that it is a bad law ; that he is doing something wrong, for which he will be punished in the world here after, because we thereby deprive our brothers and sisters of the rights which God, Almighty had apportioned to them. Our law, Sir, is quite clear and simple. Each son has to get one share, each daughter half a share, and before the son or daughter gets their share, the wife gets one-eighth of her husband's property.

**An Honourable Member :** 1|8th to a mother....

**Maulana Shaukat Ali :** I leave this matter in the hands of my lawyer friends. But I know the law is very simple ; it works well. Islam encourages that property and wealth should be properly distributed, so that they may not become, idle, lazy and useless people. Every one has got to work. Sir, I also belong to a small zemindar class. We had a fairly big property, but it was distributed amongst many people, and we now realise that it was for our good. If we do not work, we will have to live on the income of our share of the property and thus destroy it soon. I personally don't believe in the law of primogeniture, nor do I believe that in any custom which can deprive daughters of their right in their father's property. The majority of the people in Bombay, with the exception of few classes, the whole of the United Provinces, with the exception of the Talukadars of Oudh and the whole of Madras, with the exception of Moplahs in Malabar, are already governed by *Shariat*. I have met these people and I know them intimately. When we ask them as to what answer they will give before God on the Day of Judgment when they deprive their own kith and kin, their own daughters whom they had brought into this world, of their rights—they simply hang down their heads with shame. I know that self-interest and selfishness overpowers us and we do many things which are prohibited by our faiths, such as, drinking and other similar vices. I think the time has now come when we should speak frankly and boldly and ask the Mussalmans to follow the law of the *Shariat*.

I have only one more word to say and then I will close my speech. There will be many social laws to be enacted in this country. If our Hindu brethren want to correct or improve their own laws, it is not for me to interfere and criticise them. Feelings are bad enough already. We have political differences, and if we go on interfering with each other's religious laws and laugh at them, I am afraid things will become worse. If our Hindu brethren bring in a law of their own, I personally would prefer to leave them to decide it for themselves. In fact, we will give them our support if they have come to an agreement amongst themselves and the same courtesy should be shown to the Moslems. I will support the amendments of Mr. Jinnah when they are moved. We want the complete law of Islam to be practised by us in this country and we Moslems would not rest until we get what we want for the guidance of our lives.

**Mr. M. S. Aney** (Berar : Non-Muhammadan) : Sir, I entirely agree with some of the observations made by my Muslim friends who have spoken in favour of this Bill. I can understand that in matters which mainly affect the religious usages of any community, the consensus of opinion of that community should be the guide to other persons in forming their own opinion. Therefore, it is not proper for anybody to take exception to that general principle. If I have got up to speak on this occasion, it is not because that I take exception to the principle underlying this Bill but because I find that the Bill probably goes beyond the principle which the Mover of the Bill has in his mind. One point on which very great emphasis has been laid was the liberalization of the condition of the women who have embraced Islam. My Honourable friend, Dr. Deshmukh, who has already established his reputation in this House as the champion of the cause of women, has made a very eloquent speech and has told us all

[Mr. M. S. Aney.]

that this Bill not only augurs well for the Muhammadans for whom it is primarily intended, but that it is going to pave the way for the progress of the emancipation of the entire womenfolk. I wish his words will come to be true as a prophecy on this occasion. So far as the emancipation of womenfolk is concerned, it is too late for anybody to talk of any old or archaic laws. But that also is a point which I would ask this House to consider. My friend, Dr. Deshmukh, will certainly object very strongly if the Hindus think of changing the present Hindu law today on certain points replace it by the Vedic law, if he finds that it is going to militate against the idea of emancipation of Indian women. So, the principle on which my friend, Maulana Shaukat Ali and my friend, Maulana Zafar Ali Khan, have defended this Bill is not the principle on which my friend, Dr. Deshmukh, is going to give his blessings at all.

**Mr. M. A. Jinnah** (Bombay City : Muhammadan Urban) : But the result is the same.

**Mr. M. S. Aney** : We find many times that two persons go in different directions and yet meet at some point and then they say that they have come together and, therefore, they have travelled in the right direction.

**Dr. G. V. Deshmukh** : I think I made clear the grounds of my support, that the Bill was progressive in principle.

**Mr. M. S. Aney** : My Honourable friend may not misunderstand me at all.

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions : Muhammadan Rural) : I hope you will not be a blind leader of the blinds.

**Mr. M. S. Aney** : I do not know what I am. But if you call me a leader of the blind, I will only request you to use any language towards me, but spare the Honourable friends who sit behind me.

So far as the principle of the Bill is concerned, there is no question for us to consider at all. But I find that in drafting the Bill, as well as considering it in the Select Committee, proper attention has not been paid to its language and I find that it goes beyond the principal object which some of my friends have in mind. They want to have the law of *Shariat* in regard to those matters which come under the domain of personal law. If the Bill is confined only to questions of succession and inheritance and such other matters, there would have been no ground to take exception to it. But I find that almost all the ways in which the property can be disposed of are practically covered by the various items mentioned here. I will just mention a few items. The law of guardianship is also mentioned in the Bill. I do not know what is exactly the idea of those who have propounded it here. Is the law of Indian majority to stand or to go ? I am just putting this question in order to understand what they have in mind. When my Honourable friend, Mr. Jinnah, will get up, I am sure he will throw light on these questions and remove my doubts. I want to know whether a Muhammadan will be treated as a major when he attains the age of 18 or when he attains the age of 21 under the present Law of Indian majority or not ?

**Mr. M. A. Jinnah :** I have already tabled an amendment and if it is accepted by the House, all the difficulties which the Honourable Member is now putting before the House will be removed.

**Mr. M. S. Aney :** I am putting these difficulties in order to show the necessity of the amendments to the Members with a view to enable them to understand clearly the significance of the amendment which my Honourable friend, Mr. Jinnah, is going to move in this matter. I am one with him on this point that the measure goes beyond the limited object which the Mover of this motion had in mind. Similarly, it refers to gifts. There may be certain principles in the *Shariat* or in the various forms of the *Shariat* or in the personal law of the Muhammadans laying down the rules with regard to gift. But I want to understand whether the general principles of the Transfer of Property Act will govern those gifts or not.

**Mr. M. A. Jinnah :** The Transfer of Property Act does not apply to Mussalmans.

**Mr. M. S. Aney :** Clause 3 of the Bill, about which I have had a great dispute last time, has been amended. My object in doing that was also to exclude the Hindu community from certain portions of the Act. The Muhammadans were exempted but the Hindus had been included on account of the insistence of some of my friends. However, my point is this. There is the Indian Registration Act. Will that Act have an operation in regulating the gifts and other transfers made in accordance with this law or not ?

**Mr. M. A. Jinnah :** It will not apply.

**Mr. M. S. Aney :** You have to see whether out of the general body of laws which are common to Hindus and Muslims today and by which the Hindus and Muslims are governed today, any one of these laws becomes useless or inoperative in regard to certain matters which are necessarily of domestic character, but which, however, come within the domain of what we may call, secular activities and secular transactions in which the Hindus and Muslims have to interchange and interact with each other. We want to see whether by enacting this measure, all these laws which are common to Hindus and Muslims alike are going to be affected. Or does the proposed measure affect only those laws which govern the Muhammadans only....

**Sir Muhammad Yamin Khan :** Where the parties are Muslims.

**Mr. M. S. Aney :** I want to know whether where one party is a Muslim and another a Hindu, this law will affect them or not. If it affects only where both the parties are Muslims, then I do not mind. I have just put in one question where a particular kind of transaction will require registration under existing Act, will this *Shariat* law dispense with that registration between those parties. Will this law exempt the Muslims from the Registration Act ? That is the point which I want to know. In considering the amendments which are put on the agenda we must know whether this Bill is intended to exempt the Muslims from the operation of most of the general laws which govern Hindus and Muslims today and which are not of the nature of the personal law at all. If the general laws are intact and effective then there can be no objection to the Bill as it is. We have to consider the amendments from that point of view.



[Mr. M. S. Aney.]

There is another difficulty which I have always felt in considering measures of this kind. If there is a Bill before the House, I think it is necessary for Honourable Members to know what is it that we are enacting. If the entire *shariat* law has been incorporated in the Bill, then we can understand its provisions and we will then know how to record our votes after properly understanding the provisions. But now we have got an omnibus Bill which says, "let us be governed by the *shariat* law". We find there are various schools of thought in *shariat* law, and it is not in reality one law. The Koranic law which passes by the name of *shariat* is differently interpreted. Different interpretations are put on the *shariat* law. There are many commentaries on *shariat* law which interpret it in different ways. There are so many laws which come within the name of *shariat*. It is not one law which is really meant. It is a body of different laws, which in common parlance passes by the name of *shariat*. If the positoin is like that it is unfair to Honourable Members of this House to be asked to pass this measure, taking everything for granted, and concluding our mere faith that everything must be right. It is not the proper way of asking any responsible legislature to consider any measure of that kind. In this House we have been in the habit of bringing such measures. I do not blame any single community. Both Hindus and Muslims are alike to blame. Whenever a Hindu brings in a Bill, he also does the same. This habit of asking Honourable Members of the House to take everything for granted and not reproducing intact the distinct provisions of the particular law which is required to be enacted, I say, has been growing of late. I say that this practice ought to be discouraged as far as possible. Since all our Muslim friends are agreed as to the provisions of this Bill, I would say nothing against it. I want to make this observation that, hereafter at least, everybody should take care that instead of asking us to say that a particular thing should be sanctioned because it is *shariat*, you should mention to Honourable Members in the House the particular thing which requires to be enacted as law. I submit that when you vote for a measure, you should see whether it is in the best interests of the country, because our duty as citizens of the Indian Empire is to see that whatever is done today is going to help the progress of this country, whatever is done today in this House is going to help the formation of India as one nation, strong and virile. This is the ideal which every Honourable Member of the House, Hindu or Muslim, should strive for. It is the duty of every Member of the House to keep this always in mind so that he might be in a position to judge matters from this ideal. It is better that we know the details which are going to be enacted into law rather than a generic term under which those things are described to us now. While I make these few remarks, at the same time, I wish to say, that after all the amendments are considered by this House, I hope the Bill will emerge in such a form as would be acceptable to every one in the House. I wish the Bill all success and I hope the motion for consideration of the Select Committee report will be adopted.

**Several Honourable Members :** The question may now be put.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is that the question be now put.

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That the Bill to make provision for the application of the Moslem personal law (*Shariat*) to Moslems in British India, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 2 stand part of the Bill.”

**Mr. M. A. Jinnah** : Sir, I beg to move :

“ That in clause 2 of the Bill, for the words ‘ usage or law ’ the words ‘ or usage ’ be substituted.”

Sir, I think I ought to make my position clear generally, as there has been a great deal of criticism. With your permission and with the permission of the House, I might go a little beyond the four corners of the amendment. The last speech of my Honourable friend, Mr. Aney, was a criticism of the Bill in various ways. But might I explain to the House and to my Honourable friend here that the Bill is quite clear and specific. When these amendments are made, I think no reasonable person can have any complaint whatsoever. The object of the Bill is this. Of course, I am now assuming that the House will accept my amendment, and the moment the House accepts the amendment, the word “ law ” disappears from the Bill, and the moment the word “ law ” disappears from the Bill, all the criticisms that were offered by my Honourable friend, Mr. Aney, will have no ground to stand—such as the Registration Act, the Transfer of Property Act and so on and so forth—because no Statute is touched by this Bill. But this Bill has no desire really to touch any of those Statutes, we never had any desire, except perhaps those Statutes which regulate different rules of succession and disposal of property than the personal Muslim law, such as the Taluqdars of Oudh, for instance. My friend, Mr. Aney, thought that the matter was not very clear with regard to various matters. I will draw his attention to this. What is the Bill seeking to do ?

“ Notwithstanding any custom ”—(and if the amendment is accepted),—“ or usage to the contrary, in all questions regarding intestate succession (save as regards agricultural land) ”,—

We have saved agricultural land, because I find that, under the Government of India Act, it is a provincial subject, and, therefore, it cannot be dealt with here. Then, we go further :

“ special property of females, including personal property inherited or obtained under contract or gift or any other provision of Personal Law ”, etc.

That deals with property and has nothing whatever to do with anything else. That is to say, the intestate succession to the property which has been here described is one subject ; and I think it is quite clear that, when you are dealing with property, it is a question of succession and inheritance and nothing else. Then, the next subject is,—“ marriage ”. My Honourable friend, Mr. Aney, knows what it means. (Laughter.)

**Mr. M. S. Aney** : We both know it. (Laughter.)

**Mr. M. A. Jinnah** : Quite so. Surely it is quite obvious that the personal Muslim law should govern all matters connected with marriage, notwithstanding the custom or usage to the contrary, and Muslim law is

[Mr. M. A. Jinnah.]

quite clear and definite, and for a lawyer it is quite easy to understand. Now, let us take other subjects. "Dissolution of marriage",—the same observations apply; "including *talaq*" and the different kinds of *talaq* described here. There, again, to put it in the English language, the subject comes under the law of divorce. Now, the law of divorce is well-known. There is the Muslim personal law, and we are seeking to do this that that should prevail and not the usage or the custom. The next thing is "maintenance", and there it is the same thing, as also "dower". "Adoption" is taken out according to my amendment. Then comes "guardianship". As to that there is the Mussalman personal law which defines and regulates the question of guardianship, but that does not override any other Statute, because the word "law" goes. Therefore, the laws of guardianship prevalent according to the Muslim personal law will be applicable notwithstanding the custom or the usage. Then, "wills" and "legacies" are taken out. Then comes "gifts". There, again, the Muslim personal law is well known and is applicable to gifts; and we say that that law should apply notwithstanding the custom and the usage. Then, we take "trusts and trust properties and wakfs". Here, again, the law of trusts and wakfs is well known. Then, we say; "(other than charities and charitable institutions and charitable and religious endowments)". These we had to exclude, because that again is a provincial subject and not a Central subject. Now, Sir, may I know what is the real objection to this, and why is this not definite and not clear, if the word "law" is dropped?

Now, let me tell the House that barring a very small population all over India such as the Baluchis, Moplahs, Memons, Khojas and certain sections of the people in the Punjab, and so on, which is a small section compared to the Muslim population all over India, these small communities or sections have followed certain customs and usages which now have the force of law; and once the custom or usage has the force of law, that is the law for that community or that section of the people. And however much they may want to change, they are governed by it; and, therefore, something has got to be done in order that they should be brought under some other system of law if the custom and the usages are not desirable, and the custom and the usage which have the force of law are certainly unjust and particularly unjust with regard to the female heirs as to their succession in the property. As I said in the beginning when I spoke on this Bill on the consideration motion, the position really is this that, the female heirs according to the custom and the usage which we want to set aside get nothing but maintenance and marriage expenses. And here I certainly welcome the observations which were made by Dr. Deshmukh that he is a champion of women. And, Sir, if he wants any advocate to help him in that cause, he can always count upon me. I entirely agree that these customs which exclude the female heirs are, to my mind, unjust, and, not only unjust, but they are keeping down the economic position and status of women which is the foundation of their development and rise and their proper and equal share along with the men in all walks of life. Therefore, Sir, the whole object is this that personal Muslim law should govern the rule of intestate succession. Of course, there are different jurisprudences, and then my Honourable friend, Mr. Joseph, is an idealist who wants to have a Utopia when we have only one system of law in this world. We have not achieved that ideal yet. Different people have

different codes of law ; even in Europe the rules of succession differ and in India the rules of succession differ. But, Sir, I meant to say that the code of Islamic law of succession is the most just and equitable.

**Mr. George Joseph** : If that is territorial legislation, I have no objection.

**Mr. M. A. Jinnah** : My ambition is very limited. I do not believe in visionary ideas. I do not believe in dreaming of things.

1 P.M.

To make one territorial law for the whole of India will take a very long time indeed. I cannot wait till then. I find, I have no hesitation in saying this, that the Islamic code of law with regard to succession is the most just and equitable, most advanced and most progressive. I, therefore, say, let the Muslims at least be governed by it.

I will not take any more time of the House, and I hope that this Bill will be passed today. I do not want to be a party for delaying it any more. With these observations, I move my amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 2 of the Bill, for the words ‘ usage or law ’ the words ‘ or usage ’ be substituted.”

**Sir Muhammad Yamin Khan** : I wholeheartedly support the amendment which has been moved by Mr. Jinnah. As a matter of fact this was the difficulty which I had pointed out in my note of dissent. I am not wholly in agreement with certain portions of the speech of the Honourable the Mover of the amendment, but the effect of the amendment will be what I desire. In this connection, I would like to make a few observations on the speech which was made by my Honourable friend, Qazi Muhammad Ahmad Kazmi. I pointed out to him one difficulty which I want the Mussalman Members especially, and the other Members of the House generally, to understand.

**Mr. President** (The Honourable Sir Abdur Rahim) : He should speak on this particular amendment. I do not want a discussion on any other matter.

**Sir Muhammad Yamin Khan** : Sir, if this amendment is not made and the law stands as it is without taking out the word “ law ”, then we will have this clause 2 reading “ *wakfs* other than charities and charitable institutions and charitable and religious endowments ”, which means that there is a kind of *wakf* contemplated by this Act which does not come under the above. What is that *wakf*, Sir ? It comes under the purview of *wakf-ulul-aulad* which has been allowed by an enactment of this Legislature. According to *Shariat* law, which has been interpreted by the Privy Council, that kind of *wakf* was not valid. Mussalman Members may agree with the ruling of the Privy Council or not, but that is the law as interpreted by the Privy Council. Therefore the only thing which gives the right to make a *wakf-ulul-aulad* is the law, not the custom or the *Shariat*. I, therefore, think that unless we take out the word “ law ”, we will be nullifying an Act of this Legislature which gives us the right to make a *wakf-ulul-aulad*. I am sorry to find that my friend did not catch the point which I had put before him.

**Mr. M. A. Jinnah** : I am perhaps dense : I can never catch my learned friend.

**Sir Muhammad Yamin Khan :** If my friend, Mr. Jinnah, cannot catch me, it is a pity that even he cannot catch me.

**Mr. M. A. Jinnah :** A great pity.

**Sir Muhammad Yamin Khan :** That is my real difficulty in having the word "law".

**Mr. M. A. Jinnah :** We agree now.

**Sir Muhammad Yamin Khan :** To taking out the law, but on the ground.....

**Mr. M. A. Jinnah :** Never mind the ground.

**Sir Muhammad Yamin Khan :** I think, Sir, this is the position. I think the whole House will agree and drop the word "law".

**Mr. M. Ananthasayanam Ayyangar** (Madras ceded Districts and Chittoor : Non-Muhammadian Rural) : I have got a doubt which has not been cleared by the amendment of Mr. Jinnah. Now, the word "law" has been removed and the clause stands as "notwithstanding the usage or custom to the contrary in matters of succession, etc., etc.". There is a further amendment from the same Honourable Member that so far as wills, adoption, and legacies are concerned, it is open to any individual to make a declaration and thereafter this Bill will apply to him and to his children. I find that, with respect to the Cutchi Memons of Bombay, an Act was passed in 1920 which was again amended in 1923, whereby they could declare against the application of the ordinary law of inheritance and succession which, in their case, was according to Hindu law. Even though the word "law" is removed from clause 2, it will have this effect that, even in regard to Cutchi Memons to whom the laws of 1920 and 1923 apply and under which they can modify the ordinary succession according to Hindu law, Cutchi Memons, from the date of the passing of this Act, are bound by the Muslim law. That will be the effect. Therefore, I want the Honourable House to understand the implications of this Bill. I want to know from the Honourable the Mover of the amendment whether it is contemplated that, notwithstanding the Act, passed by the Legislature enabling the Cutchi Memons to modify their law, which is Hindu law, into one of Muslim law, it should be obligatory under this law for them to adopt, immediately on the passing of this law, the Muslim law.

**Mr. M. A. Jinnah :** The answer is "yes". I thought I made it clear that it is a very small section indeed of Cutchi Memons, Moplahs, and so on. The answer is "yes" so far as intestate succession is concerned ; and let me inform the House and the Honourable Member who put me this question that I understand that more than 900 members of the community have already taken advantage of that declaration out of a total of 1,500 or 1,600 ; so more than half have already come under it, and the remaining portion is so small, and, as I said, what we are doing is so equitable that having regard to the general question the small portion also should be brought in immediately under the effect of this Bill.

**Mr. M. Ananthasayanam Ayyangar :** May I suggest one thing ? It is because even under this law in its application with respect to certain aspects, that is, with respect to legacies, adoption.....

**Mr. M. A. Jinnah** : That is taken out.

**Mr. M. Ananthasayanam Ayyangar** : Inasmuch as a similar declaration is provided for this, and 900 of these people have already joined, why should you force this upon the remainder.....

**Mr. M. A. Jinnah** : I will explain when I come to that.

**Mr. M. Ananthasayanam Ayyangar** : Therefore, if this Bill becomes law, even in spite of the Cutchi Memons Act of 1920 or 1923, making an enabling provision and asking them to voluntarily come in, with respect to this other 700, i.e., about 30 or 40 per cent. of them, this law would be made compulsorily applicable. An amendment has been made in the Bill taking out the word "law". A similar provision may be made by creating an exception with respect to this also unless the entire Memon community is in favour of applying this law notwithstanding the enabling provision that is made by the other Act. That is all I have to say with respect to this matter.

**Some Honourable Members** : The question may now be put.

**Mr. Husenbhai Abdullabhai Laljee** (Bombay Central Division : Muhammadan Rural) : Sir, I rise to support the amendment that has been moved. So far as my community is concerned, they do not mind the word "law" for the reason we are Muhammadans and we have all seen the great benefit that Islam confers upon humanity by making the *Shariat* which gives equal rights to all the human beings. I do realise the difficulty in using the word "law", because the great difficulty that is existing is that some of my friends may not like it, and it is more than probable that the Government will not agree to it and I do not want that this Bill should be delayed for a moment : it ought to be passed as soon as possible.

**Mr. President** (The Honourable Sir Abdur Rahim) : Before putting the amendment, I should like to inform the House that my attention has been drawn to amendment No. 11 which stands in the name of Mr. Mudie. As I read it, supposing this amendment of Mr. Jinnah is carried, that amendment will not be barred.

**Mr. M. A. Jinnah** : Yes : I submit it will bar it.

**Mr. President** (The Honourable Sir Abdur Rahim) : Very well, if that is his position ; then, I must allow Mr. Mudie now to move his amendment before I put the other to vote.

**Mr. R. F. Mudie** (Government of India : Nominated Official) : Sir, I move :

"That to clause 2 of the Bill, the following be added :

'except in so far as that law has been either expressly or by necessary implication altered or abolished or is opposed to the provisions of any legislative enactment :

Provided that nothing herein contained shall affect the power of a court in the absence of specific law to apply to the decision of any case the principles of justice, equity and good conscience'."

I had put down an amendment on the same lines as that which Mr. Jinnah has moved just now—No. 4 on the paper : and this amendment No. 11 and amendment No. 4 hang together. Amendment No. 11 really consists of two parts. There is a proviso, and the words beginning with 'except'. The proviso merely repeats the present position.....

**Mr. President** (The Honourable Sir Abdur Rahim) : I think the Honourable Member had better continue his speech after Lunch.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

**Mr. R. F. Mudie** : I think, Sir, that if any difference exists about this amendment, it can only be on a matter of drafting. There is no difference between myself and Mr. Jinnah as to our intention. But it must be clearly stated what that intention is. I would invite the attention of Honourable Members of this House to Amendment No. 12 in the name of Sardar Sant Singh, and Amendment No. 15 in the name of Qazi Muhammad Ahmad Kazmi. I do that because these amendments bring out clearly that there are two kinds of laws which govern this matter. Sardar Sant Singh's amendment gives a list of what might be called adjective laws such as the Registration Act and the Stamp Act, and Mr. Kazmi's amendment gives another list—possibly incomplete—of quite a different type of laws, laws which apply in each province and which lay down that if the effect of custom has the force of law, the rule of decision will be custom and not the *Shariat*. Mr. Kazmi wants these laws to have no effect as regards Muslims. That is obviously necessary. If these laws still continue to have effect as regards Muslims, then the Bill will be absolutely null and void. So it must be admitted that the laws of the land, mentioned by Mr. Kazmi, must cease to have effect as regards Muslims. Now, the question is as regards the other laws, the adjective laws of the type mentioned by Sardar Sant Singh. It is essential that these laws should not be affected by this legislation. A similar case arose when a similar Bill was being enacted in the North-West Frontier Legislature about three years ago ; I take a case put forward there as an argument for maintaining these adjective laws, the case of prompt dower. If this dower is not paid, is there any period of limitation within which a bride must sue ? There is none, I understand, in the *Shariat*, but under the Limitation Act the limit is three years. Is it the intention of the introducers of this Bill to affect the law of limitation ? I find, Sir, none in the Statement of Objects and Reasons. Only custom is mentioned, and there is no mention whatsoever of the law of limitation. I will take another example. Is it proposed by this legislation to abolish section 488 of the Criminal Procedure Code in its application to Muslims ? That section allows a woman to sue for maintenance and provides an expeditious and cheap method of obtaining it. It also lays down the conditions under which maintenance can be refused. If she refuses to live with her husband, for no good reason, then maintenance can be refused. I understand that is not exactly the *Shariat*. There are three other conditions under which maintenance can be refused. But I do not think it was ever the intention of my friend, Mr. Abdullah, or the other supporters of this Bill, to alter the Criminal Procedure Code as regards maintenance. There is the Guardians and Wards Act and other Acts, some of which are mentioned by Sardar Sant Singh. There is also the Court Fees Act, etc. I do not think it was ever the intention

of the supporters of this Bill to alter the Court Fees Act. These adjective laws must be preserved. I may mention that there is another set of laws such as the Taluqdari Law of Oudh, the United Provinces Estate Act and various other Acts which apply to small sections of the community, but the main set of Acts which we must preserve are those which embody the adjective law. What is the problem? We have got one set of Acts which we wish should remain in force as regards Muslims, and another set of Acts which we wish should cease to have force as regards Muslims. Now, Sir, we are in a dilemma. If it is held that Mr. Jinnah's amendment for removing the words "or law" saves all the laws of this country then the question will arise does it save Mr. Kazmi's laws? If on the other hand, which, I think, is more likely, it is held that Mr. Jinnah's amendment does not save any law, then we have lost the adjective law. I will call the attention of Honourable Members of this House once more to the law passed in the North-West Frontier Province. That law, as originally introduced, was on very much the same lines as this Bill. Clause 2 read as follows: "Any questions regarding succession, special property of females, etc., etc." the rule of decision shall be the Muslim personal law, *Shariat*, in cases where the parties are Muslims. Except for the words which now remain in our clause 'notwithstanding usage or custom', which we may leave out, as far as "law" is concerned, that draft is the same as the draft we have at present, if Mr. Jinnah's amendment is accepted. That is to say, neither in the North-West Frontier Province Act nor in our present draft does the word "law" occur. But that draft of the North-West Frontier Bill was held—and I think rightly held—to have the effect of overriding all other law. In the North-West Frontier it was considered necessary to specify, as I hope the House will do by accepting this amendment, that in all these questions the *Shariat* applies "except in so far as it has been altered by a legislative enactment". If we do not insert that exception, then I think there is a very great danger of our law being misunderstood. Take the case of succession to an Oudh Taluqdar. The Taluqdar's heir comes forward, and claims under the Taluqdari Act. Some one, a reversioner, a daughter or some one else,—comes along and says, "No. There is the *Shariat* Application Act. Your Taluqdari Act was passed in 1869. The law I rely on was passed in 1937 and I claim that the later legislation overrides the earlier. My claim for succession is under the *Shariat* and I am the heir or heiress under the *Shariat*". There is a great danger of legal complications; unless we specify exactly which Acts are to remain in force and which Acts ought not to remain in force. As regards the wording of my amendment, the *Shariat* will apply, except in so far as it has been either expressly or by necessary implication altered or abolished or is opposed to the provisions of any legislative enactment. It covers the amendments of both Sardar Sant Singh and Mr. Kazmi. Mr. Kazmi's amendment mentions section 26 of the Bombay Regulation IV of 1827, etc. These sections do not in any way alter the *Shariat*. They lay down that either custom or the *Shariat* shall be the rule of decision but they do not, in any way, by implication or directly alter the *Shariat* itself. Either you apply the one or you apply the other. Sardar Sant Singh's Acts, on the other hand, such as, the Limitation Act, the Court-fees Act, the Guardian and Wards Act, etc., may by implication alter the *Shariat*; that is to say, they may override the *Shariat* as regards the period of limitation, as regards court fees, as regards guardians and wards, etc. So



[Mr. R. F. Mudie.]

that my amendment rules out Mr. Kazmi's laws and allows Mr. Sant Singh's laws to stand. The drafting is not mine, but that of the Government draftsman who is an expert. He had the whole thing before him and this was his solution of the difficulty abolishing the laws which must cease to have effect and maintaining in force the laws, which must be left in force. This is the draft which he has produced, and I hope I have shown that it is satisfactory. It is the draft of an expert and I think that there is a great danger if it is not adopted, that Mr. Jinnah's object will not be attained. Now, Sir, I come to the second part of my amendment.

**Mr. Akhil Chandra Datta** (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : May I ask one question with regard to the first part of the amendment ? May I know what the Honourable Member means precisely by the word " law " in line 1 of his amendment ? Does he refer to the word law as it appears there, or to the general provision of the whole clause.

**Mr. R. F. Mudie** : If this amendment is adopted, the last few lines of clause 2 will read,

" the rule of decision in cases where the parties are Muslims shall be the Muslim Personal Law (*Shariat*) except in so far as that law has been either expressly or by necessary implication altered or abolished or is opposed to the provisions of any legislative enactment."

That is to say, " law " means the Muslim Personal Law. That is quite clear, I think.

**Mr. M. A. Jinnah** : You are putting the cart before the horse !

**Mr. R. F. Mudie** : The second part of my amendment, namely,—

" Provided that nothing herein contained shall affect the power of a court in the absence of specific law to apply to the decision of any case the principles of justice, equity and good conscience."

That, Sir, is not so important as the first part. I presume that all courts do their best as regards justice, equity and good conscience, but there is a specific provision to this effect in the various sections which Mr. Kazmi wishes to abolish as regards Muslims. If Mr. Kazmi's amendment is not pressed or is not carried, then the second part of my amendment will not be necessary. I do not know, Sir, if you would put the two parts of my amendment separately on that account.

**Mr. President** (The Honourable Sir Abdur Rahim) : If you retain the word " Provided " I think I shall have to put the whole thing as one

**Mr. M. A. Jinnah** : I object to the whole of the amendment of my Honourable friend.

**Mr. President** (The Honourable Sir Abdur Rahim) : That is another matter.

**Mr. R. F. Mudie** : The word " Provided " may be left out. The second part will then read, " Nothing herein contained.....".

**Mr. President** (The Honourable Sir Abdur Rahim) : What about Mr. Kazmi's amendment ?

**Mr. M. A. Jinnah :** That is put on a different footing.

**Mr. R. F. Mudie :** As regards Mr. Kazmi's amendment, the sections which he refers to have this provision about justice, equity and good conscience.

**Mr. President** (The Honourable Sir Abdur Rahim) : I think there is a similar proviso—I know in Bengal, in certain cases, where the Muhammadan law does not apply, and there is a question between Hindus and Muhammadans, then the law of justice, equity and good conscience applies. I do not know whether that is in the Act itself, but I know that is the law.

**Mr. M. A. Jinnah :** The amendment of Mr. Kazmi has nothing to do with the amendment of Mr. Mudie. When that amendment comes the House will deal with it. At present the amendment of Mr. Mudie would have been barred if my amendment would have been carried and, therefore, I hope you will be pleased to have both the amendments before the House. Mr. Kazmi's amendment has nothing whatever to do with my amendment or the amendment of Mr. Mudie. It is an independent amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : Mr. Mudie wants the exception and the proviso to be put separately to vote, but if he has it as a proviso, I think, I must put the two as one. That is why Mr. Mudie pointed out that section 26 of the Bombay Regulation IV of 1827 applies the law of justice, equity and good conscience in cases where there is no specific law in the decision of any question. That is the position I understand.

**Mr. R. F. Mudie :** That is the position, Sir.

**Mr. President** (The Honourable Sir Abdur Rahim) : Then, I would have to put Mr. Jinnah's amendment first, and if that is carried, I will have to consider whether Mr. Mudie's amendment is inconsistent with that, and if I hold that it is not inconsistent, then I shall put that, but if I find that it is inconsistent, then, of course, that will be barred.

Has Mr. Mudie finished ?

**Mr. R. F. Mudie :** I have practically finished. The points which the House should remember are : we must save one set of laws and ensure that another set of laws has no effect, we have got to make our Act quite clear, so that it will not lead to litigation. The point of the second half of the amendment is that we must leave no doubt, whatever, that in the event of there being no law, either *Shariat* or statute law, the Courts are still bound, as they are at present, by justice, equity and good conscience.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That to clause 2 of the Bill, the following be added :

‘ except in so far as that law has been either expressly or by necessary implication altered or abolished or is opposed to the provisions of any legislative enactment :

Provided that nothing herein contained shall affect the power of a court in the absence of specific law to apply to the decision of any case the principles of justice, equity and good conscience ’.”

**Mr. M. A. Jinnah :** I oppose the amendment. I really feel that there is a very great deal of confusion in the mind of those who are responsible for this amendment. It is really extraordinary that such a simple thing should be so confused by Mr. Mudie in his speech. Let us see how the matter stands. He thinks that he is on the horns of a dilemma and he says "We have got it in a Statute which was passed in the North-West Frontier Province, Act VI of 1935". The words are these :

"Except in so far as such law has been altered or abolished by legislative enactments or is opposed to the provisions of the North West Frontier Province Law and Justice Regulations of 1901."

But he forgets that the main clause, clause 2, starts with a very different language. It says :

"In all questions regarding succession, special property of females, marriage, dower, and so on, the rule of decision would be the Moslem personal law (*Shariat*) where the parties are Muslims."

Having regard to the words of the main clause, if it was left as it was, undoubtedly a doubt will arise whether all the adjective laws were not also repealed or overruled, and, therefore, in that particular Bill, as it was worded, it may have been thought desirable to have these words, but here you cannot have the same clause, no matter what the previous clause is, and that is where the whole confusion arises. The previous clause here runs very differently and makes the position quite clear, and, therefore, this exception, which is embodied in the amendment of Mr. Mudie, is wholly unnecessary and will lead to more confusion instead of clearing up matters. The clause that we have got before us is this, and I want the House to really carefully attend to it :

"Notwithstanding any custom, usage or law to the contrary, in all questions regarding succession and so on the rule of decision in cases where the parties are Muslims shall be the Muslim Personal Law."

The moment we drop the word "law" from this clause, all that you are enacting is this, that the Moslem personal law will apply only so far as the usage or custom is concerned, namely, that the usage or custom is over-ruled, and nothing more. We are not dealing with any other law. We are not overruling or repealing any other law. All that we say is that whatever the usage or custom may be, the rule of decision shall be the Moslem personal law. Therefore, everything else is completely safe, and I say that it will lead to enormous difficulties if you have this put in, having regard to the wording of the clause before the House and it is obvious that it is not required. Mr. Mudie tries to frighten us by saying "What will happen to the law of limitation, court fees", and so on. We are not dealing with them. Nothing is touched. All that remains, and I think that Sardar Sant Singh was perfectly justified, if I may say so, in giving his amendment as long as the word "law" stood. If the word "law" had stood there, I could appreciate the force of that amendment, but it seems to me that I cannot either persuade or convert or convince Mr. Mudie. As to the proviso, Sir, I say most respectfully, whoever may be the drafts-

man, what does this mean? I really want to understand what it means :

“ Provided that nothing herein contained shall affect the power of a court in the absence of specific law to apply to the decision of any case the principles of justice, equity and good conscience.”

Custom and usage having been overruled, is it necessary for this Legislature to tell the Court “ When you can find nothing, you should apply the principles of justice, equity and good conscience ”.

**Mr. R. F. Mudie** : That is the general law.

**Mr. M. A. Jinnah** : Is this the subject of an amendment to have it in the Bill and then tell the Courts of justice that this House has decided that when they can find no specific law, they must be guided by the rules of equity, justice and good conscience? That is in the General Clauses Act itself, and, therefore, I say that it might lead to very serious misunderstanding. It is really unnecessary and it is a very harmful provision. Taking the amendment either as a whole or even separately, I most respectfully submit that it will lead to grave complications, whereas the Bill, as it is worded, is, I submit, clear and really there is no doubt whatever. All that we are seeking by this Bill is that we are overruling the custom or usage, if any, either established and having the force of law or it may be put forward to be established. Therefore, I do ask Mr. Mudie and the Government to reconsider their position, and I do trust that they will not press for this amendment.

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions :

3 P.M. **Muhammadan Rural**) : Sir, the position has been very clearly placed before the House. The word “ law ”

is known to be quite expressive and quite explicit, and there cannot be two meanings attached to it, and I do not see how the Government want that there should be any exemption or any explanation or any proviso added to explain the word “ law ” itself. There is only one law, and that word “ law ” is referred to here. In fact, in one of the amendments which Mr. Mudie and Mr. Jinnah have put on the list (No. 4), they have both agreed that, in clause 2 of the Bill, for the words “ usage or law ” the words “ or usage ” be substituted. It is only an after-thought that the word “ law ” should be so defined as to include in it all the laws that exist in this country or that some adjective laws or substantive laws should be expressly mentioned. If we do that, then we will simply go on increasing the difficulties of the Courts of law to find out what the word “ law ” means. I also oppose this amendment.

**Dr. Ziauddin Ahmad** (United Provinces Southern Divisions : Muhammadan Rural) : Sir, I am not a lawyer and I would like to ask one question in order to remove my ignorance from Mr. Jinnah. Suppose we agree to his amendment and remove the word “ law ”, what would it mean? Suppose there are certain customs and usages which are prevalent in a particular province and those customs and usages have been enacted in a law, so that they form part of a law.

**Mr. M. A. Jinnah** : That is law.

**Dr. Ziauddin Ahmad :** In that case all customs and usages which have been incorporated in that law will remain as they are.

**Mr. M. A. Jinnah :** No, no. If there is any statute which is made an express rule, then it is the statutory law and not custom or usage.

**Dr. Ziauddin Ahmad :** If we accept Mr. Jinnah's amendment, then these laws will remain and they will not be repealed. I should like to know what are the things which we want to repeal by the words 'usages and customs' which are outside the scope of law. If we remove the word 'law' altogether, I do not find any necessity for having this Bill at all. After all, these customs and usages which are prevalent everywhere have already been incorporated in some law and if we accept Mr. Jinnah's amendment, they will continue to be in force.

**Mr. M. A. Jinnah :** May I interrupt the Honourable Member ? First of all, there is a custom or a usage which has not been made the express rule of codification and yet it has got the force of law. That is to say, the courts of justice, although it is not a statute, will say, that this particular community is governed by this custom which has got the force of law. Therefore, you must be governed by that custom or usage. Take another case where the custom may not have been established because a particular dispute has not arisen yet in a particular community. I may inform the House that only a few days ago, in a certain matter, custom was set up which had not received the force of law. Then, that custom has got to be proved by evidence and may be established. Now, what we are striving by this Bill is to over-rule a custom which has already been established or has the force of law or which may be established hereafter. We are not touching anything that has been done by codification or by an enactment of a Legislature because that is a statute. It is only in regard to the custom or the usage that we are providing for and, therefore, we say that at present we are not going to deal with these laws.

**The Honourable Sir Saiyid Sultan Ahmad** (Member for Commerce and Railways) : The question that has been put is this : Is there any custom or usage, which has not been incorporated in any legislative enactment, which is hit by your Bill ?

**Mr. M. A. Jinnah :** Yes, all over. I think Dr. Ziauddin Ahmad must have read the report of Mr. Mudie where he points out that customs prevail amongst various sections and various communities. In the note of Mr. Mudie you have got the communities of Cutchi Memons, Khojas, Borahs, Mopillas, Baluchis mentioned. These customs are actually prevalent and have the force of law and are being enforced by the courts of justice and that is what we want to remove. They are not the laws.

**Dr. Ziauddin Ahmad :** I think by removing the word 'law' the scope of the Bill will become very limited compared with what the Mover had in his mind. Of course, the Mover definitely had in his mind that all the laws which are contrary to *Shariat* should also be repealed and all those laws should be regulated by the *Shariat*. That was the original intention of the Mover of this Bill and by removing the word 'law' we are now very much restricting the scope of this Bill. The position will

be that all those laws, even if they are against the explicit will of Islam, will remain as they are and they will not be repealed, if we accept Mr. Jinnah's amendment. Only a few of these customs and usages which are still holding good and which are very limited in number, such as, those relating to Cutchi Memons, Khojas, Borahs, Mopillas, Baluchis, etc., will be repealed but the Punjab customary laws will not be affected because they are codified.

**An Honourable Member :** The Punjab customary laws are not codified.

**Dr. Ziauddin Ahmad :** In any case, the intention of the motion of Mr. Jinnah is that the *Shariat* will apply only in those cases where the Legislatures have not given their blessings and wherever there is a definite verdict of a Legislature against the *Shariat*, that verdict will remain good and it will not be altered. But the original intention of the Mover of the Bill was that all cases, whether they have been codified or not, ought to be governed by the *Shariat*. If there is any law made by any Legislature, Central or Provincial, which is against the *Shariat*, it ought to be declared null and void. But if we accept this amendment, then the scope of the Bill will be exceedingly limited and it will apply only to such usages and customs as have not already been codified and have not already been brought under the statutes of a Provincial or the Central Legislature. This is really a very important amendment and it is very much restricting the scope of this particular Bill and it is really not a thing which we can lightly pass over. It is a question of fundamental principle which will affect the usages and practice which have already been codified and brought on the statutes. I think this amendment will very much restrict the object which the Honourable the Mover had in bringing forward this measure.

**Syed Ghulam Bhik Nairang :** Sir, it appears to me that there is some confusion of thought as regards the effect of the deletion of the words 'or law' from the proposed clause. The question raised by my Honourable friend, Dr. Ziauddin Ahmad, is whether by striking out the words 'or law' it is meant to leave alone such customs and usages as have already received recognition from the courts and have been acted upon by the courts.

**Dr. Ziauddin Ahmad :** Not by the courts but by the Legislature.

**Syed Ghulam Bhik Nairang :** Well, I will take those customs which have been merely recognised by the Legislature and those that have been given the shape of a statute. The fact of the matter is that there are various ways in which custom can be recognised and acted upon. The first way would be to give it statutory recognition as a rule of decision without embodying it in any statute, without enacting its details and rules in the shape of so many sections of a statutory Act. That is one form in which custom can be accorded statutory recognition. Many examples of such recognition are to be found in the various statutes of which certain sections are sought to be repealed in the amendment of Mr. Kazmi. For instance Mr. Kazmi's amendment seeks to repeal section 5 of the Punjab Laws Act, 1872. Now, that is a section which accords recognition to custom as a rule of decision without in any way specifying in that section or in the rest of the Act what the custom is. The nature of the custom.

[Syed Ghulam Bhik Nairang.]

its applicability and everything has got to be ascertained by the courts when such questions come before them. Section 5 only authorises the courts, in fact enjoins them, to give effect to custom if it is found to exist, but if no custom is found to exist on the particular point in issue before the court, then it is clearly laid down by that section that the personal law of the parties shall apply. That is one way. Another way is to convert custom into so many sections of an Act. I may give an example of this which my lawyer friends will understand at once. Take for instance the law of contract in our country. It is contained in an Act of the Legislature, but it is a well-known fact that the Act embodies the canons of English common law and we know that the common law of England is mostly judge-made law which is nothing but the custom of England. My friends ask me to cut short my speech. I will, therefore, simply say in answer to the question put by my Honourable friend, Dr. Ziauddin Ahmad, that by this Bill we do seek to repeal to make ineffectual and inoperative all customs which have not been converted into statutory enactments.

**Mr. M. S. Aney** (Berar : Non-Muhammadian) : Sir, I only have stood up to make a few observations on the amendment moved by Mr. Mudie and also on the amendment moved by Mr. Jinnah. The purpose which Mr. Jinnah has in view is to my mind the same as that which Mr. Mudie has in view, particularly in so far as the first part of the amendment is concerned. The object of Mr. Jinnah is to exclude statutes and statutory modifications made by the statute in the personal law from the operation of this section. If there is any modification of the Muslim law by statute in any case that will be excluded from the operation of this clause. So it is only where customs and usages prevail that this law is intended to operate. If that is the object of Mr. Jinnah that will be achieved by the omission of the words 'or law'. Mr. Mudie thinks that by merely omission this object may or may not be achieved. He thinks the position will remain doubtful.

".....the rule of decision in cases where the parties are Muslims shall be the Muslim personal law."

Mr. Mudie's difficulty is that probably this last operative clause may not necessarily mean that the other laws which have brought about the modification are also hereby left altogether untouched. That is his apprehension. My point is this. No law is repealed unless it is repealed specifically by statute. He should take his stand upon it and no Judge will be inclined to hold that a law is repealed unless a statute specifically repeals it. If there is a schedule attached to this Bill detailing therein that such and such Acts have been repealed, that alone would have the effect of repealing the laws mentioned therein. So long as there is no repealing Act, every Act on the Statute-book has its operation and will have to be considered by the courts as being in force in considering any case. In view of that rule of interpretation, there is no valid reason for anybody to feel that other laws which are already enacted and are in force are repealed by this or made ineffective and inoperative. In view of this, the amendment of Mr. Mudie is redundant. The purpose of the two amendments looks to me the same. Whether the proviso also should go in or not is a different question. I think Mr. Jinnah should

have no objection to retain the proviso. I, therefore, think, that so far as Mr. Mudie's amendment is concerned, the first part of the amendment may be dropped and the proviso retained.

**Mr. President** (The Honourable Sir Abdur Rahim) : I propose to put Mr. Jinnah's amendment to vote first. Mr. Jinnah's argument, as supported by Mr. Aney, is that the amendment of Mr. Mudie is redundant and unnecessary and not that it is barred. I, therefore, propose to put Mr. Jinnah's amendment first and then Mr. Mudie's.

The question is :

"That in clause 2 of the Bill, for the words 'usage or law' the words 'or usage' be substituted."

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

"That to clause 2 of the Bill, the following be added :

'except in so far as that law has been either expressly or by necessary implication altered or abolished or is opposed to the provisions of any legislative enactment :

Provided that nothing herein contained shall affect the power of a court in the absence of specific law to apply to the decision of any case the principles of justice, equity and good conscience'."

The motion was negatived.

**Major Nawab Sir Ahmad Nawaz Khan** (Nominated Non-Official) : I move :

"That in clause 2 of the Bill, after the word 'questions' the brackets and words '(save questions relating to jagirs and other grants or assignments of land revenue)' be inserted."

The object of this Bill and of the Mover and of Mussalmans generally is to give full rights of inheritance to all kinds of Muslim women. Under the present customary law or usage women have been debarred from getting their share in landed property. In our province, two years ago, we have passed a law which grants the rights of inheritance to Muslim women even in landed property. We are ahead of other provinces and we do not think that the application of this Bill will be of any use to our province. On that point my friend, Mr. Abdul Qaiyum, will bear me out. The Select Committee and many Mussalman Members from the Punjab have agreed to curtail the effect of the original Bill so far as agricultural land and inheritance of women are concerned. While agreeing to that principle, I propose that *jagirs* and land revenue assignments, granted by Government, should be saved from the operation of this Bill for two reasons. First of all, Islamic law of inheritance comes in only where the man is the owner of his property, but in all such grants the grantee has no power either of sale or transfer in any way and, therefore, is not the owner of it. The case for exception of *jagirs* and other Government grants is stronger than in the case of landed property in the Punjab, because agricultural property, according to Islamic law, can be inherited and sold by women, while *jagir* grants cannot be. Therefore, I think, that in some cases when the grantee dies a lawyer may put some interpretation and advise litigation. It is in order to avoid such litigation that I wish it should be made clear in the Bill.



**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 2 of the Bill, after the word ‘ questions ’ the brackets and words ‘ (save questions relating to jagirs and other grants or assignments of land revenue) ’ be inserted.”

**Mr. Abdul Qaiyum** (North-West Frontier Province : General) : I sympathise with the object of the amendment which has been moved by the Nawab Sahib who hails from my province, but I submit, Sir, that as I read the amendment and certain provisions of the Government of India Act, I think the fears entertained by him are absolutely uncalled for, because as clause 2 stands, agricultural land is excluded. It is a well-known fact, Sir, that any question pertaining to agricultural land cannot be touched by the Federal Legislature : that is a provincial subject. I will invite the attention of this Honourable House to the Provincial Legislative list, clause No. 21, which runs thus “ land, that is to say, rights in or over land, and transfer, alienation and devolution of agricultural land ”. Now, Sir, if agricultural land is being left out, then it follows that *jagirs*, which are mainly concerned with agricultural land, are also excluded from the purview of this Bill. But if this argument does not find favour with this House, there is another additional argument in support of the contention that this particular amendment is unnecessary. Some of these *jagirs*, I think, are governed by certain laws.....

**Major Nawab Sir Ahmad Nawaz Khan** : Not all.

**Mr. Abdul Qaiyum** : As far as I know, most *jagirs* are governed by certain laws which have been enacted and Mr. Jinnah's amendment which has been accepted by this Honourable House, therefore, excludes them.

**Major Nawab Sir Ahmad Nawaz Khan** : I must say that no law is enacted : there is no *jagir* land revenue assignment in the Punjab or the North-West Frontier Province.

**Mr. Abdul Qaiyum** : On this point I respectfully disagree from the assertion made by the Honourable the Mover of the amendment. I contend that there are laws about *jagirs* in practically every province and when we have excluded the word ‘ law ’ from clause 2, it means that all those laws which deal with *jagirs* have been saved : therefore, there is absolutely no risk that this Bill will in anyway affect the rights of the *jagirdars* or those who inherit their rights. I, therefore, submit that the object of the Mover can be quite well safeguarded by the Bill as it stands, and that the amendment is unnecessary. I request the Mover to withdraw it.

**Mr. R. F. Mudie** : Sir, I think both Honourable Members are right.....

**Mr. Sri Prakasa** (Allahabad and Jhansi Divisions : Non-Muhamadan Rural) : And so are you !

**Mr. R. F. Mudie** : As always ! It is quite true that rights over land are provincial and I think an assignment of land revenue must be taken as a right over land. Also, explicitly, land revenue is a provincial subject. So my Honourable friend, Mr. Abdul Qaiyum, is quite right in saying that the Act will not apply to these assignments of land revenue. But I think there is no reason why we should not make that clear. Every one after all does not study Schedule VII of the Government of India

Act and as the Select Committee agreed explicitly to save succession in the case of agricultural land, I think there is no objection if we make it quite clear in the body of the Act that it does not apply to assignments of land revenue either. The second argument of my friend from the Frontier is, I am afraid, quite wrong. There are no Acts that I know of governing the assignments of land revenue. In each case there is a *sanad*, and the grant is governed by the *sanad*. The point really is that the Nawab Sahib is afraid that the *sanad* is going to be over-ridden by this Act. That cannot be because land revenue is a provincial subject : but there is no harm, I think, on the analogy of agricultural land, in making that quite clear.

**Mr. M. A. Jinnah :** Sir, it seems really that everybody is afraid as if some harm is going to be done to him. Perfectly right. People sometimes create fears for themselves when fears do not exist. Now, let us examine this particular case. *Jagirs* or grants, as Mr. Mudie just now told the House, are *sanads* given by the Government. In all those grants, whether it is in a *sanad* or whether it is in some other form, they are made according to the terms of the *sanad*, and the terms are laid down in the *sanad* or grant itself. Are we dealing with those cases by this Bill ? Is this Bill really dealing with a particular grant which is made by the Government to a particular individual which is to be governed by the particular terms of that grant ? We are not dealing with that. May I draw the Honourable Member's attention to the Bill ? We are dealing here with the succession. Surely the subject-matter of the grant or *sanad* can never be the subject-matter of succession law.....

**Mr. B. F. Mudie :** Why not ?

**Mr. M. A. Jinnah :** It is governed by the terms of the *sanad*. Can you change that ? I shall stand corrected if I am wrong. Perhaps Mr. Mudie who is full of this information will tell this. Can a grantee do anything except to act according to the terms of the *sanad* ? In other words, can he dispose of the subject-matter of the grant in any way he likes ? Can he by any means or by any law which is known—can that property be governed by any law of succession.....

**The Honourable Sir Saiyid Sultan Ahmad** (Member for Commerce and Railways) : Of course.....

**Mr. M. A. Jinnah :** Contrary to the terms of the *sanad* ?

**The Honourable Sir Saiyid Sultan Ahmad :** There may be no terms at all for succession.

**Mr. M. A. Jinnah :** Then I should like to know this. The amendment now is in different language : in the first amendment as put forward there was put the law of primogeniture, but that cannot be altered because it is laid down in the *sanad*.....

**The Honourable Sir Saiyid Sultan Ahmad :** It is not necessarily so. It may be in the *sanad* or it may not be in the *sanad*. There are many *jagirs* and grants like that where the rule of succession is not laid down ; and yet the rule of primogeniture prevails because of the custom.

**Mr. M. A. Jinnah :** This is according to custom : may I know why they should be exempted ?

**The Honourable Sir Saiyid Sultan Ahmad :** That is another matter.

**Mr. M. A. Jinnah :** Why should this small class be privileged and exempted from the ordinary rule of succession ?....

**Major Nawab Sir Ahmad Nawaz Khan :** Why should agricultural land be exempted ?

**Mr. M. A. Jinnah :** Because we cannot legislate here....

**Major Nawab Sir Ahmad Nawaz Khan :** And, therefore, you cannot touch the *jagirs* too.

**Mr. M. A. Jinnah :** May I be allowed to go on ? If I understand, we cannot touch those grants which are governed by the terms of the grant as to how they devolve upon the successive heirs. This Bill does not touch them. But those grants which are nothing but mere gifts by any ordinary person giving a gift for good service or past service, that is his own property. If it is his own property, not subject to any terms of succession or devolution, then, may I know why any exception should be made at all ? Either this law will apply to them or it will not apply to them. But I really do not see any reason why an exception should be made.

**Captain Sardar Sir Sher Muhammad Khan (Nominated Non-Official) :** Sir, may I ask one question of Mr. Jinnah ? There are different kinds of *jagirs*. For example, supposing I own three or four villages and the revenue of those villages is exempted and I take the revenue, and Government do not take it. That is one kind of *jagir*, which is given by the revenue not being taken by the Government. The other is a cash *jagir* given to a *jagirdar* from any village. Will Mr. Jinnah tell me how he would treat a *jagir* in the first category ?

**Mr. M. A. Jinnah :** Your children will get it according to the Muslim law.

**Sir Muhammad Yamin Khan :** I think, Sir, that there seems to be some kind of confusion about *jagirs*....

**An Honourable Member :** You make it worse confounded !

**Sir Muhammad Yamin Khan :** My friend, Mr. Jinnah, has taken one kind of *jagir* into his mind, and there seems to be some kind of apprehension in the mind of the Honourable the Mover of this amendment. The simple question is that the *jagir* or the land revenue grant, if it is granted, just as is generally done by putting down *Nuslun-bād-Nuslun*. If the words *Nuslun-bād-Nuslun* apply either to land revenue grant or a *jagir* as pointed out by my friend, Captain Sher Muhammad Khan, that is to say, a man has got a village, he is the proprietor of a village, and Government, in view of his services, remit to him the land revenue, they do not charge him land revenue as long as he lives, they allow him to enjoy the land revenue as long as he is alive or make condition that he does not part with it or sell it to another. If the property is to be enjoyed by a particular person as the full owner of that land revenue, this Bill wants that it should devolve, according to Muhammadan law, on the successors to enjoy it. When a Mussalman is in possession of a property which was presented to his ancestors in return for some services rendered, and that property is to devolve on his children, then a section of the children, that is the daughters alone should be excluded from enjoying it is really very wrong. Now, there are several kinds of *jagirs*. In my province there are *jagirs* which were given to people by the Moghul Emperors,

certain zemindaris were given to be kept up for charitable institutions. In such cases the zemindari property remains vested in a *Khanka*, but the land revenue is enjoyed by the family or the descendants of the saint buried in *Khanka*. As far as these zemindaris are concerned, they are a kind of *Wakf*, and the specific purpose is specified, but in the case of a *jagir*, the land revenue comes to you. In that case the property comes under succession to all the heirs under the Muslim law and I don't think it is governed by the words 'agricultural land'. I don't agree with what my friend, Mr. Abdul Qaiyum said, that because this income is derived from agricultural land it should be regarded as agricultural income, because, the man has no hold on the agricultural land. The man who enjoys the *jagir* has nothing to do with partition or enhancement of rent or things of that kind. It is only given in return for services rendered, and that ought to be enjoyed by all the descendants.

**Several Honourable Members :** The question may now be put.

**Mr. President** (The Honourable Sir Abdur Rahim) : I have given my ruling that this amendment is open to the vote of the House, and the amendment now carried, that is No. 4, does not stand in the way. As regards the question of repetition, it is not for me, but it is for the House to decide whether an amendment like this is necessary or advisable or not.

The question is :

“ That in clause 2 of the Bill, after the word ‘ questions ’ the brackets and words ‘ (save questions relating to jagirs and other grants or assignments of land revenue) ’ be inserted.”

The motion was negatived.

**Mr. M. A. Jinnah :** Sir, I move :

“ That in clause 2 of the Bill, before the word ‘ succession ’ the word ‘ intestate ’ be inserted.”

I need not take up the time of the House any more. Honourable Members understand that this had to be done because the wills and legacies have been taken out of the original Act.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 2 of the Bill, before the word ‘ succession ’ the word ‘ intestate ’ be inserted.”

**Sir Muhammad Yamin Khan :** Sir, I oppose this amendment, because I do not think that the insertion of the word ‘ intestate ’ before ‘ succession ’ will be happy reading. It is not proposed to have a comma between the word ‘ succession ’ and ‘ intestate ’, and so if we accept the amendment it will read ‘ intestate succession ’. What will be the meaning of ‘ intestate succession ’ ? Certainly it will be ambiguous and it will narrow down the scope of the Bill. And if the words ‘ wills and legacies ’ are not taken out from the Bill, I don't think the word ‘ succession ’ will have any place in the Bill. We have not come to the words “ wills and legacies ” and I cannot make a speech on those words now, but I must say that as regards wills and legacies the Mussalmans should be guided by their own personal law. I oppose this amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 2 of the Bill, before the word ‘ succession ’ the word ‘ intestate ’ be inserted.”

The motion was adopted.

**Mr. R. F. Mudie** : Sir, I move :

“ That in clause 2 of the Bill, the words and brackets ‘ (save as regards agricultural land) ’ be omitted and after the word ‘ questions ’ the brackets and words ‘ (save questions relating to agricultural land) ’ be inserted.”

In the Select Committee, the words “ save as regards agricultural land ” were inserted immediately after the word “ succession ” so that they governed only the word “ succession ”. The reason for inserting those words was that succession as regards agricultural land is a provincial subject.

**Mr. M. A. Jinnah** : We accept the amendment.

**Mr. R. F. Mudie** : Legacies and wills, as far as agricultural land is concerned, are also a provincial subject. Transfer and devolution of agricultural land is a provincial subject, and it is, therefore, necessary to make it clear that none of this clause 2 applies to agricultural land.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 2 of the Bill, the words and brackets ‘ (save as regards agricultural land) ’ be omitted and after the word ‘ questions ’ the brackets and words ‘ (save questions relating to agricultural land) ’ be inserted.”

The motion was adopted.

**Mr. M. A. Jinnah** : Sir, I move :

“ That in clause 2 of the Bill, the word ‘ adoption ’ be omitted.”

I do not wish to make a speech. I think the House understands what it is.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 2 of the Bill, the word ‘ adoption ’ be omitted.”

The motion was adopted.

**Mr. M. A. Jinnah** : Sir, I move :

“ That in clause 2 of the Bill, the words ‘ wills, legacies ’ be omitted.”

I want to make it quite clear to the House that these three matters, namely, adoption, wills and legacies, we agreed to drop from clause 2 not because we do not want them.....

**Sir Muhammad Yamin Khan** : Who agreed ?

**Mr. M. A. Jinnah** : You will understand if you will hear me. The matter was very carefully considered by almost every Mussalman Member of this House and I want to state on the floor of this House that these amendments which stand in my name are not my individual amendments at all. It is only that I am giving effect to the consensus of opinion. After very careful consideration of the *pros* and *cons* it was decided,—although we would like—why should “ law ” be omitted, why should agricultural land be omitted ? If we try to get sixteen annas, we know we may lose the whole. There are difficulties, and surely my Honourable friend who

was on the Select Committee knows it perfectly well. There was Mr. Mudie's amendment and that amendment was a very threatening and dangerous amendment, namely, that no part of this Bill should come into operation unless each province decided that it should operate. And Mr. Mudie has given very powerful reasons in the Report of the Select Committee, where he points out that you are suddenly, with one swoop, enacting a law which would uproot transactions that have taken place, such as, adoptions, wills, legacies. And his point was that until each province decides for itself, this law should not come into operation, because those people concerned or interested in those matters may have their say in the matter. There was a danger of that, and, therefore, if we can get fourteen annas at this stroke, let us hope that we will get the remaining two annas very soon, and it is with a view to meet that situation that almost every Mussalman Member who was present except my Honourable friend.....

**Sir Muhammad Yamin Khan :** I was never informed to come.

**An Honourable Member :** You were not here.

**Sir Muhammad Yamin Khan :** I was here. I was not informed to come.

**Mr. M. A. Jinnah :** I regret very much. It was not in my doing. I was asked to go there like any other Member and I think there were about 30 Members present, and, after careful consideration, these were the amendments that we thought that we should move. They are not my individual amendments. That is all I want to say on that to the House. With regard to the question of wills and legacies and adoption the matter stands in this way. As I pointed out in reply to a question that was put to me on another amendment about Cutchi Memons, I think I may inform the House—that is my information and those are the facts—that by voluntary method, by persuasive method more than half the Cutchi Memons have come under that declaration and the Muhammadan law applies to them. We do not give up ; we are only trying to apply persuasive methods, voluntary methods, and if any Mussalman who desires to be governed by the Muslim law even with regard to adoption, wills and legacies, he has only got to come and make a declaration immediately after this Bill is passed, and from that moment he will be governed by the Muhammadan law and his minor children. Therefore, let us try this method which has proved to a great extent to be successful, but, if, ultimately, we find that we have exhausted this persuasive and voluntary method, and if this House then thinks that, even with regard to adoption as well as legacies, the Muslim Personal Law should be made applicable, we shall consider it. There is no giving up of anything or committing ourselves in any way. Sir, I move.

**Mr. President (The Honourable Sir Abdur Rahim) :** Amendment moved :

“ That in clause 2 of the Bill, the words ‘ wills, legacies ’ be omitted.”

**Sir Muhammad Yamin Khan :** I am sorry that I did not know that Mr. Jinnah was moving these amendments as the outcome of certain understanding between himself and certain other Muslim Members.

**An Honourable Member :** A majority.

**Sir Muhammad Yamin Khan** : May be a majority or a minority, but I have got a right to be heard as individual Member of the House and as a Mussalman and I am not going to be bound by what my Honourable friend may call majority. The majority may be sitting in one Party, and I may be one on this side, but I have to safeguard the interests of Mussalmans in spite of the majority of Mussalmans coming to a contrary decision. I am sorry that whatever arrangement, whatever meeting and whoever might have been fixing all that meeting—they should not have thought fit to invite all the Muslim Members to come.....

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member cannot go into a discussion of any such meeting or any conclusion arrived at any such meeting. It is not binding on any Member of this House.

**Sir Muhammad Yamin Khan** : Mr. Jinnah gave out that it was not his amendment, but an amendment agreed to by some Mussalman Members.

**Mr. M. A. Jinnah** : I did not say some. I said that this amendment is not my individual amendment but it emanates because of the consensus of opinion behind it.

**Mr. President** (The Honourable Sir Abdur Rahim) : The fact that other men have agreed to it does not bind any Member.

**Mr. M. A. Jinnah** : Of course, it does not.

**Sir Muhammad Yamin Khan** : I am only putting my grievance before

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Mr. Jinnah, that those persons have ignored the other Mussalmans who were not present.

The point is that I do not want to come in the way of any agreement that may have been arrived at. I quite agree with Mr. Jinnah that if we cannot have 16 annas, we must be willing to get 14 annas at present. I would like one point to be cleared. The Mussalman Members who were present at that meeting may be persons coming from provinces where the Moslem law does not apply. What will happen to the Mussalmans in the provinces where the *Shariat* law is already in force ? There are some Muslims who are governed by Muslim law and some who are not. As far as those persons who are governed by customary law or usage, are concerned, these words 'wills and legacies' have been correctly taken out. My difficulty is this. What will happen in those places where the customary law does not prevail ? Shall I have to go and make a declaration as soon as this Bill is passed that I am going to be governed so far as wills and legacies are concerned by the Islamic law ? Is it going to be made obligatory on persons who are not obliged at present to do so to make a declaration ? Is that the idea ? There is not much difficulty, so far as I am concerned, but if it is going to create a difficulty in the way of other persons, then it will be my painful duty to oppose this amendment, in spite of the fact that certain Mussalmans have agreed to this proposal. Therefore, I want to know what the position is.

**Mr. M. A. Jinnah :** As far as I can see, I see no difficulty at all. The point is this : Is this really limiting the application of Muhammadan law ? This Bill is not intended to limit the application of Muhammadan law. It is intended to extend the application of the personal Moslem law. In other words, those people who are already governed by the Muhammadan law are not touched by this Bill at all. It is only those people who are governed by custom or usage whom we are trying to get hold of. We say that in future the law of intestate succession shall not be according to custom or usage.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member added the word "intestate" by way of amendment.

**Mr. M. A. Jinnah :** That is what I am saying. Therefore, we are trying to extend the application of Muhammadan law to those classes who have been hitherto governed by customary law. We have done away with a very important part, namely, the case of intestate succession, because in future no intestate succession can devolve according to custom but according to Moslem personal law. That we have done.

**Mr. President** (The Honourable Sir Abdur Rahim) : Will not that exclude wills and legacies ?

**Mr. M. A. Jinnah :** Yes, but we are excluding wills and legacies and adoption by whom ?—by those people who are, according to customary law, entitled to make wills or to adopt. That does not mean that my friend, who is governed hitherto by Islamic laws, will have to go and make a declaration, although custom is not applicable to him. It is only those who are governed by customary law with regard to wills, adoption and legacies who will have to go and make a declaration that the Moslem personal law should be applied in their case. Therefore, in other words, this Act is not restricting the application of Muhammadan law, but it is enlarging and extending it to those classes who are hitherto governed by customary law.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 2 of the Bill, the words 'wills, legacies' be omitted."

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim) : The next amendment is No. 12 but the verdict on amendment No. 11 excludes it.

**Maulvi Muhammad Abdul Ghani** (Tirhut Division : Muhammadan) : Mr. President\*, with your permission, I have moved my amendment in an amended form.

**Mr. R. F. Mudie :** I rise on a point of order : Should not the Honourable Member read his amendment ?

**Maulvi Muhammad Abdul Ghani :** Sir, I beg to move my amendment which runs as follows :

"That to clause 2 of the Bill, the following proviso be added :

'Provided that section 2 of the Bill shall not in any way affect the rights of Muslims of any province where the Muslim Personal Law (*Shariat*) is already in force.'

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member must move his amendment first. Surely, he knows English enough to move it.

\*Translation of the speech delivered in the vernacular.



Had my Honourable friend, Mr. Mudie, a little patience on his part, there would have hardly been any necessity of his rising to a point of order. I was only seeking your permission to move the amendment in an amended form and after your permission I intended to move it. However, I have moved it and it is before the House.

Sir, the object of this amendment is quite clear. In the provinces of Bihar, Orissa and Bengal, there is no custom or law standing in the way of Muslims regarding the application of their Personal (*Shariat*) Laws. The Muslims are fully enjoying their Personal Laws, and the Courts in these provinces do pass decrees according to the Personal Laws of Muslims, and, if you will kindly look to the opinions received on the Bill, you will find that people of these provinces do not want the Bill in its restricted form.

Sir, I fail to understand what remains after the various amendments of my learned friend, Mr. Jinnah. The words—"or Law," "Wills", "Legacies" and "Adoption" have already been taken away from the Bill to suit the purposes of a few persons. The Select Committee exempted the agricultural lands from the operation of this Bill. In Bihar, Bengal, Orissa, and also in parts of other provinces, women are enjoying advantages of Muslim Personal Laws and getting their full shares according to the *Shariat* Laws in all their ancestral properties, say, *Jagirs*, *Lakheraj*, rent or revenue free lands, houses and other immovables as well as movables.

I say, Sir, the Mover of the Bill as well as a few of my Muslim friends will excuse me to say that they will have the only consolation that they have got the *Shariat* Bill passed by this House and thus they can save their face before the Muslim community.

I don't like to be a party to such a crippled measure which gives nothing but name and which is going to be unnecessarily forced upon the Muslim community of British India against their express desire. The Mussalmans of India do not like to be so coerced as to accept a crippled measure like this which is unjustly going to be forced upon them through their representatives.

Keeping in view the notices of the various amendments tabled, I thought it my bounden duty to table my amendment. I would be failing in my duty if I do not move and press my amendment which I am confident is quite a harmless one. It does not decrease in any way the force of the amendments of my learned friend, Mr. M. A. Jinnah. I know it may be argued that it is redundant, but I assure you, Sir, that I have seen Courts interpreting the Laws in their own way. They refuse to be guided either by the views of individual Members of this House or the reports of the Select Committee. Some one here may say that this Bill is not going to restrict the rights of any Mussalman in any part of British India, but I will respectfully tell them, Sir, that I do not agree with such views if expressed on the floor of this House.

I see the danger. I know the amended Bill will restrict the rights of Muslims of provinces where they are enjoying full advantages of the Muslim Personal (*Shariat*) Laws.

With these words, I commend my motion, and appeal the Honourable Members of this House to support my amendment

**Mr. M. Ghiasuddin** (Punjab : Landholders) : Maulvi Muhammad Abdul Ghani wants to withdraw his amendment.

**Maulvi Muhammad Abdul Ghani** : No, Sir, I have authorised none on my behalf to plead for me. I am not going to withdraw my motion.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That to clause 2 of the Bill, the following proviso be added :

‘ Provided that section 2 of the Bill shall not in any way affect the rights of Muslims of any province where the Muslim Personal Law (*Shariat*) is already in force ’.”

**Mr. M. A. Jinnah** : Sir, I have no objection at all to make this clear, but the difficulty I feel is this. You say, in any province where the Muslim law is already in force, but the Muslim law is a personal law, and you cannot say that it is in force in any province. It is not a provincial law. Unless a Statute is passed, there is no provincial law. You cannot have one Muslim law in force in one province and another Muslim law in another province.

**Mr. President** (The Honourable Sir Abdur Rahim) : I understand the object of the amendment is that in provinces where the Muslim law of the *Shariat* is already in force, this Bill will not apply.

**Mr. M. A. Jinnah** : Quite so.

**The Honourable Sir Saiyid Sultan Ahmad** : In a province there may be a personal law affecting people generally, and there may be a customary law affecting certain class of people. It is not a territorial law at all.

**Mr. M. A. Jinnah** : My submission is that it is quite unnecessary, because clause 2 of the Bill, as I have already explained, does not in any way infringe upon the Muslim law wherever it is applicable and to whichever community it is applicable. It only now takes away the usage and the custom.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That to clause 2 of the Bill, the following proviso be added :

‘ Provided that section 2 of the Bill shall not in any way affect the rights of Muslims of any province where the Muslim Personal Law (*Shariat*) is already in force ’.”

The Assembly divided :

AYES—16.

Abdul Ghani, Maulvi Muhammad.  
 Abdul Qaiyum, Mr.  
 Ahmad Nawaz Khan, Major Nawab Sir.  
 Bhutto, Mr. Nabi Baksh Illahi Baksh.  
 Chaliha, Mr. Kuladhar.  
 Chaudhury, Mr. Brojendra Narayan.  
 Ghuznavi, Sir Abdul Halim.  
 Gupta, Mr. K. S.

Ismail Khan, Haji Chaudhury Muhammad.  
 Kailash Behari Lal, Babu.  
 Muhammad Ahmad Kazmi, Qazi.  
 Paliwal, Pandit Sri Krishna Dutta.  
 Shahban, Mr. Ghulam Kadir Muhammad.  
 Singh, Mr. Gauri Shankar.  
 Yakub, Sir Muhammad.  
 Ziauddin Ahmad, Dr.

NOES—23.

Abdul Hamid, Khan Bahadur Sir.  
 Abdullah, Mr. H. M.  
 Abdur Rasheed Chaudhury, Maulvi.  
 Anwar-ul-Azam, Mr. Muhammad.  
 Azhar Ali, Mr. Muhammad.  
 Essak Saif, Mr. H. A. Sathar H.  
 Fazl-i-Haq Piracha, Khan Bahadur Shaikh.  
 Fazl-i-Ilahi, Khan Sahib Shaikh.  
 Ghusiuddin, Mr. M.  
 Ghulam Bhik Nairang, Syed.  
 Jehangir, Sir Cowasji.  
 Jinnah, Mr. M. A.

Kamaluddin Ahmed, Shams-ul-Ulema.  
 Kushalpal Singh, Raja Bahadur.  
 Murtuza Sahib Bahadur, Maulvi Syed.  
 Nauman, Mr. Muhammad.  
 Rahman, Lieut.-Colonel M. A.  
 Shaikat Ali, Maulana.  
 Sher Muhammad Khan, Captain Sardar Sir.  
 Siddique Ali Khan, Khan Sahib Nawab.  
 Sivaraj, Rao Sahib N.  
 Umar Aly Shah, Mr.  
 Zafar Ali Khan, Maulana.

The motion was negatived.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 2, as amended, stand part of the Bill.”

The motion was adopted.

Clause 2, as amended, was added to the Bill.

**Mr. M. A. Jinnah** : Sir, I move :

“ That after clause 2 of the Bill, the following new clauses be added :

‘ 3. (1) Any person who satisfies the prescribed authority :

(a) that he is a Muslim, and

(b) that he is competent to contract within the meaning of section 11 of the Indian Contract Act, 1872, and

(c) that he is a resident of British India, may by declaration in the prescribed form and filed before the prescribed authority declare that he desires to obtain the benefit of this Act, and thereafter the provisions of section 2 shall apply to the declarant and all his minor children and their descendants as if in addition to the matters enumerated therein adoption, wills and legacies were also specified.

(2) Where the prescribed authority refuses to accept a declaration under sub-section (1), the person desiring to make the same may appeal to such officer as the Provincial Government may, by general or special order, appoint in this behalf, and such officer may, if he is satisfied that the appellant is entitled to make the declaration order the prescribed authority to accept the same.

4. (1) The Provincial Government may make rules to carry into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :

(a) for prescribing the authority before whom and the form in which declarations under this Act shall be made ;

(b) for prescribing the fees to be paid for the filing of declaration and for the attendance at private residences of any person in the discharge of his duties under this Act ; and for prescribing the times at which such fees shall be payable and the manner in which they shall be levied.

(3) Rules made under the provisions of this section shall be published in the official Gazette and shall thereupon have effect as if enacted in this Act '."

In short, this provides, first of all, for a declaration to be made. When a declaration is made, the declarant and his minor children will be governed by this Act in all matters specified in clause 2 in addition to wills, legacies and adoption. All the other parts merely describe the machinery set up for that purpose. Sir, I move the amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

" That after clause 2 of the Bill, the following new clauses be added :

3. (1) Any person who satisfies the prescribed authority :

(a) that he is a Muslim, and

(b) that he is competent to contract within the meaning of section 11 of the Indian Contract Act, 1872, and

(c) that he is a resident of British India, may by declaration in the prescribed form and filed before the prescribed authority declare that he desires to obtain the benefit of this Act, and thereafter the provisions of section 2 shall apply to the declarant and all his minor children and their descendants as if in addition to the matters enumerated therein adoption, wills and legacies were also specified.

(2) Where the prescribed authority refuses to accept a declaration under subsection (1), the person desiring to make the same may appeal to such officer as the Provincial Government may, by general or special order, appoint in this behalf, and such officer may, if he is satisfied that the appellant is entitled to make the declaration, order the prescribed authority to accept the same.

4. (1) The Provincial Government may make rules to carry into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :

(a) for prescribing the authority before whom and the form in which declarations under this Act shall be made ;

(b) for prescribing the fees to be paid for the filing of declarations and for the attendance at private residences of any person in the discharge of his duties under this Act ; and for prescribing the times at which such fees shall be payable and the manner in which they shall be levied.

(3) Rules made under the provisions of this section shall be published in the official Gazette and shall thereupon have effect as if enacted in this Act '."

**Sir Muhammad Yamin Khan** : In spite of my Honourable friend, Mr. Jinnah's assurance that this will not affect the Mussalmans who are already governed by the Muslim personal law at present.....

**Mr. M. A. Jinnah** : I can give no assurance, but that is my reading.

**Sir Muhammad Yamin Khan :** I beg to differ from him, because the words in the preamble :

“ Whereas it is expedient to make provision for the application of Muslim personal law to the Mussalmans in British India ”

and clause 1 :

“ This Act may be called the Muslim Personal Law,”

extend the operation of the Bill to the whole of British India. If this law is to extend to the whole of British India and the clause which my Honourable friend is moving is inserted, that is going to be applicable to the Mussalmans in the whole of British India without any exception, which again means that the clause will be operative in my province, the United Provinces. This will force every Mussalman there to make a declaration if he wants to make a will or leave a legacy. I would have whole-heartedly supported this amendment, if it were only applicable to the provinces where the customary law or usage is applicable. I would not have raised any objection to that. But in the United Provinces, Bihar and other places, where the Muslim law is at present applicable, they do not require to go to any registration office to declare that from that time they will be bound by Muslim law as far as wills and legacies are concerned, but they will be made to do this by this clause. This will be forcing about two crores of Mussalmans to go into a registration office, pay a certain fee and make a declaration. There will arise all sorts of questions about succession as to who is the man who made the declaration, may be after ten years or five generations, and it will have to be proved that the party was bound by the Muslim law, his ancestor, who again will have to be proved, having made this declaration. There will be many complicated questions : the Mussalman concerned will have to trace his descent from the person who made the declaration and show how he came to make this declaration. I do not think this amendment is well conceived and can work properly. Instead of giving facilities to Mussalmans this amendment will create many impediments in their way. I am sorry, Sir, I have to oppose this amendment. I hope my other Honourable friends, those who had agreed with Mr. Jinnah at their meeting, will revise their opinion and not vote for this amendment. I hope too that the other Members who did not enjoy the confidence of that meeting will also vote against this amendment and will not allow such difficulties to be created in the way of Mussalmans. Sir, I oppose this amendment.

**Maulvi Muhammad Abdul Ghani :** Sir,\* now the danger, of which I was afraid, is before the House. You will see, Sir, that by this amendment of my Honourable friend, Mr. M. A. Jinnah, those persons who are Mussalmans by faith and by birth shall be compelled to make a declaration before any British Court that they are Muslims. It may be argued, I know, that they will not be so forced. In that case, my reply will be that there is no dearth of interested persons who can come forward before any Court after the death of a particular Mussalman and take shelter under this amendment and base their claim on the plea that the deceased was not a Mussalman or that he changed his faith in the latter days of

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\*Translation of the speech delivered in the vernacular.

his life. How difficult it would be then for the legitimate heirs of the deceased to contradict such interested persons successfully in the absence of any proper declaration made to a Court by the deceased !

I say, the Courts, if they so chose, may require in some cases such declarations. It is not only an unnecessary addition to the difficulties of Muslims, but will touch their poor pockets to pay for the lawyers and requisite stamps of Court-fees for a declaration under this amendment if accepted. It is often urged by Muslim representatives of this House that their community is very poor and should be helped in all branches of life. Here is the help and remedy for such a poor community from its own representatives. Had my amendment been not opposed by Muslim representatives, the Muslims of some provinces or part of provinces would not have to face such troubles. They would have easily been exempted. The story of villagers that sometimes persons in search of sons have to lose husbands comes to be true in our case.

I told you in the very beginning when the motion for consideration of the Bill was before the House, that I am not going to be a party to such a crippled legislation which is going to be unnecessarily forced by Muslim representatives upon the Muslim community :

*"Saadi Az daste kheshtan faryad."*

I strongly oppose the amendment, and hope I will be supported by the Honourable Members of this House.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That after clause 2 of the Bill, the following new clauses be added :

'3. (1) Any person who satisfies the prescribed authority :

(a) that he is a Muslim, and

(b) that he is competent to contract within the meaning of section 11 of the Indian Contract Act, 1872, and

(c) that he is a resident of British India,

may by declaration in the prescribed form and filed before the prescribed authority declare that he desires to obtain the benefit of this Act, and thereafter the provisions of section 2 shall apply to the declarant and all his minor children and their descendants as if in addition to the matters enumerated therein adoption, wills and legacies were also specified.

(2) Where the prescribed authority refuses to accept a declaration under subsection (1), the person desiring to make the same may appeal to such officer as the Provincial Government may, by general or special order, appoint in this behalf, and such officer may, if he is satisfied that the appellant is entitled to make the declaration, order the prescribed authority to accept the same.

4. (1) The Provincial Government may make rules to carry into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :

(a) for prescribing the authority before whom and the form in which declarations under this Act shall be made ;

(b) for prescribing the fees to be paid for the filing of declarations and for the attendance at private residences of any person in the discharge of his duties under this Act ; and for prescribing the times at which such fees shall be payable and the manner in which they shall be levied.

(3) Rules made under the provisions of this section shall be published in the official Gazette and shall thereupon have effect as if enacted in this Act."

[Mr. President.]

(Two Honourable Members said " No ".)

Will Honourable Members who are opposed to this amendment rise in their places ?

(Two Honourable Members rose in their seats.)

Honourable Members who are in favour of the amendment will rise in their seats.

(A large number of Honourable Members rose to support the amendment.)

The motion was adopted.

New clauses 3 and 4 were added to the Bill.

**Sir Muhammad Yamin Khan** : Will the names of the Members who opposed this amendment be recorded in the proceedings ?

**Mr. President** (The Honourable Sir Abdur Rahim) : I do not think it is the usual practice. The Honourable Member has other means of making it known that he was opposed to the amendment.

**Mr. M. A. Jinnah** : Sir, now that the amendment is carried, the subsequent clause 3 has to be re-numbered as clause 5 : otherwise it will stand as clause 3. It is merely consequential. I move :

" That the present clause 3 be re-numbered as clause 5."

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

" That the present clause 3 be re-numbered as clause 5."

The motion was adopted.

**Qazi Muhammad Ahmad Kazmi** (Meerut Division : Muhammadan Rural) : Sir, may I move my amendment No. 15 ?

**Mr. President** (The Honourable Sir Abdur Rahim) : Will the Honourable Member see the wording of amendment No. 11 ? How can the Honourable Member move his present amendment ?

**Qazi Muhammad Ahmad Kazmi** : That amendment has been negatived and the Bill is absolutely silent as to whether any enactment has been affected by it or not.

**Mr. President** (The Honourable Sir Abdur Rahim) : The verdict of the House is, that it is not necessary.

**Qazi Muhammad Ahmad Kazmi** : That it is not necessary to say anything so far as Muhammadan law has been encroached upon by any enactment. My submission is that I am not moving that, but the opposite of it—that these enactments should be repealed. It is the other way round.

**Mr. President** (The Honourable Sir Abdur Rahim) : Very well. I was under a misapprehension.

**Qazi Muhammad Ahmad Kazmi** : Sir, on account of the changes in the number of the clauses, this will be numbered 6.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 5, what was originally clause 3, stand part of the Bill.”

The motion was adopted.

Clause 5, what was originally clause 3, was added to the Bill.

**Qazi Muhammad Ahmad Kazmi** : Sir, I beg to move this clause with a little variation, and the variation is this :

“ That after clause 5 of the Bill, the following new clause be added :

6. Provisions of the Acts and Regulations mentioned below shall be repealed in so far as they are inconsistent with the provisions of this Act, namely :

- (1) Section 26 of the Bombay Regulation IV of 1827 ;
- (2) Section 16 of the Madras Civil Courts Act, 1873 ;
- (3) Section 37 of the Bengal, Agra and Assam Civil Courts Act, 1887 ;
- (4) Section 3 of the Oudh Laws Act, 1876 ;
- (5) Section 5 of the Punjab Laws Act, 1872 ;
- (6) Section 5 of the Central Provinces Laws Act, 1875 ; and
- (7) Section 4 of the Ajmer Laws Regulation, 1877 ’.”

This amendment has been brought forward to repeal particular sections of particular enactments. For the information of Honourable Members of this House, I will take the Punjab Laws Act. The principal reason as to why this enactment has been brought before this House is that, though, according to the old enactments of the time of the East India Company, it was the Muslim personal law that governed all the Muslims of India. But certain later enactments gave a preference to custom as against Muslim law. For example, Sir, section 5 of the Punjab Laws Act lays down :

“ In questions regarding succession, special property of females, betrothal, marriage, divorce, dower, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partitions, or any religious usage or institution, the rule of decision shall be—

- (a) any custom applicable to the parties concerned, which is not contrary to justice, equity or good conscience, and has not been by this or any other enactment altered or abolished, and has not been declared to be void by any competent authority ;
- (b) the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, except in so far as such law has been altered or abolished by legislative enactment, or is opposed to the provisions of this Act, or has been modified by any such custom as is above referred to.”

In short, the particular provisions I have mentioned are such that the customary law has been given precedence over the Muslim personal law, and whatever custom is found in different provinces where those particular laws are in force, in those cases the particular custom of a community, of a district or a village is to be given precedence over the Muslim personal law.

**Mr. M. S. Aney** : Will my friend read clause 5 of the C. P. Act ?



**Qazi Muhammad Ahmad Kazmi :** It is just the same. It says this :

“ In questions regarding inheritance, special property of females, betrothal, marriage, dower, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partition or any religious usage or institution, the rule of decision shall be the Muhammadan law in cases where the parties are Muhammadans, and the Hindu Law, in cases where the parties are Hindus, except in so far as such law has been, by Legislative enactment, altered or abolished, or is opposed to the provisions of this Act ; Provided that when among any class or body of persons or among the members of any family any *custom* prevails which is inconsistent with the law applicable between such persons under this section, and which, if not inconsistent with such law, would have been given effect to as legally binding, such *custom* shall, notwithstanding anything herein contained, be given effect to.”

What we want is only the repeal of the proviso, and that is why I have worded my clause in this manner to show that the provisions of the Acts and Regulations mentioned below shall be repealed so far as they are inconsistent with the provisions of this Act. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That after clause 5 of the Bill, the following new clause be added :

‘ 6. Provisions of the Acts and Regulations mentioned below shall be repealed in so far as they are inconsistent with the provisions of this Act, namely :

- (1) Section 26 of the Bombay Regulation IV of 1827 ;
- (2) Section 16 of the Madras Civil Courts Act, 1873 ;
- (3) Section 37 of the Bengal, Agra and Assam Civil Courts Act, 1887 ;
- (4) Section 3 of the Oudh Laws Act, 1876 ;
- (5) Section 5 of the Punjab Laws Act, 1872 ;
- (6) Section 5 of the Central Provinces Laws Act, 1875 ; and
- (7) Section 4 of the Ajmer Laws Regulation, 1877 .”

The motion was adopted.

New clause 6 was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 1 stand part of the Bill.”

**Mr. Abdul Qaiyum :** Sir, I move :

“ That to sub-clause (2) of clause 1 of the Bill, the words ‘ excluding the North-West Frontier Province ’ be added at the end.”

My reasons are obvious. If this Bill is passed into law, under section 107 of the new Government of India Act of 1935, it will override Act VI of 1935 of the North-West Frontier Province. In the North-West Frontier Province we have a law which goes far beyond what this present Bill aims at. In our province all kinds of succession are subject to *Shariat* where the Mussalmans are concerned. Agricultural land is subject to *Shariat* where the parties are Mussalmans. Similarly, religious trusts and charitable trusts which have been excluded from the purview of this particular Bill are governed by the *Shariat*. I am in full sympathy with the object of the Bill, namely, that the Mussalmans of India should be governed by progressive laws, and in this respect it is quite obvious that the Muslim law, as the Honourable Mr. Jinnah put it, is most equitable, most progressive and most just. But if this Bill is to apply to my province, then we will be forced to take

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several steps backwards, and this is not desirable. I want the Muslims of India to follow the Muslim law as far as they can, but because we have a law which covers a wider sphere in the North-West Frontier Province, I submit that this measure should not apply to my province. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That to sub-clause (2) of clause 1 of the Bill, the words ‘ excluding the North-West Frontier Province ’ be added at the end.”

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 1, as amended, stand part of the Bill.”

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Title and the Preamble were added to the Bill.

**Mr. M. A. Jinnah** : May I request you to sit a little longer in order that we might finish this Bill completely today ?

**Mr. President** (The Honourable Sir Abdur Rahim) : I take it that it will suit the convenience of the House if I sit a little longer and finish this Bill.

**Honourable Members** : Yes.

**Mr. H. M. Abdullah** (West Central Punjab : Muhammadan) : I beg to move :

“ That the Bill, as amended, be passed.”

**Mr. President** (The Honourable Sir Abdur Rahim) : Motion moved :

“ That the Bill, as amended, be passed.”

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions : Muhammadan Rural) : It is with a heavy heart that I rise to oppose the motion which has been made by my Honourable friend, Mr. Abdullah. The object, for which we brought forward this Bill, was that the restrictions which have been put by the Anglo-Muhammadan Law upon the Muslim law should be removed. The law as it stands at present, I mean the Anglo-Mussalman law, was not enacted by our vote and with our consent. We were no party to it, and, therefore, we could not be blamed for making any interference with the Islamic law. Now, the Bill in the form in which it is going to be passed by the House certainly interferes with the Muslim law, and as far as I am concerned I will not vote for any law which interferes in the law of God and in my *Shariat*. Whatever the progress we may have made in the original law through this Bill, I cannot vote, nor will I be a party to any enactment which interferes with our *Shariat*. I am told that certain amendments were accepted by my Honourable friends, a majority of the Muslim Members, because they were threatened by the

[Sir Muhammad Yakub.]

Government Member that he would oppose the whole Bill and that the whole structure would fall to the ground.

**Mr. R. F. Mudie** : Not at all. On a point of personal explanation, Sir. No threat whatever was given. Mr. Jinnah approached me with certain amendments.

**Sir Muhammad Yakub** : Will my Honourable friend, Mr. Mudie, say that Government would not have opposed if the word "law" had not been dropped. I wait for an answer.

**Mr. R. F. Mudie** : I put in the same amendment myself. It is hardly worth while giving an answer.

**Sir Muhammad Yakub** : I put the same question again. Would Government not have opposed the Bill if the word 'law' had not been dropped ? I wait for an answer.

**Some Honourable Members** : You had better go on.

**Sir Muhammad Yakub** : I say it is very unfortunate that the Government of India have taken such a hostile view towards the Mussalmans and towards the Muslim law. As I said the other day, the Queen's Proclamation of 1857 was broken not once, not twice, not thrice, but on numerous occasions, and now the Government again want to interfere with our law. And Mr. Mudie smiles and laughs. I feel extremely offended, I ask Mr. Mudie not to laugh, not to insult the Mussalmans in this way. That is a public insult to Mussalmans. I say that the British Government are intruding into our personal laws and the *Shariat* and I cannot be a party to any interference whatever. If this Bill is progressive over the present law I do not care, but I will not be a party to any interference with the *Shariat*. Therefore, I would oppose this motion.

**Maulvi Abdur Rasheed Chaudhury** (Assam : Muhammadan) : If I speak a few words, I hope it will not be understood that I am opposing the motion ; on the other hand, I am supporting it. I had in the beginning some doubts as regards the utility of this Bill. After Mr. Jinnah explained why he omitted the word "law" from clause 2, I was convinced that the Bill would certainly be a useful one although in a restricted sense. Even now I have got some doubts about some provisions of the Bill, as, for instance, compelling a Mussalman to come and make a declaration before a lawful authority that he wants to come under the provisions of this Bill. This is simply irritating. But after hearing Mr. Jinnah, that he wants to gain 14 annas now in the hope of gaining 16 annas later on, I am agreeable to his amendments. Now, Sir, the *Shariat* is a very dear thing to the Mussalmans. It has stood the test of severe criticism and severe attacks, but, all the same every time the *Shariat* came out successful. By following the *Shariat* rules, the Mussalmans did wonders in the past. They showed progress in territorial acquisition and they charmed the world by being a guide and torch bearer of knowledge to the rest of the world 1,300 years ago. It was by following the *Shariat* rules that the females got status among the Mussalmans. It was on account of this that the females have got what possessions they have got in the West, and I hope that this Bill will not only prove beneficial to the Muslims, but will also be an object of imitation, so far as female inheritance and other questions are concerned, by other communities of this great continent. I support the Bill,

**Sir Muhammad Yamin Khan :** If I speak for a few minutes, I hope it will not be understood that I do not like the Bill as amended to be passed. If there has been a consensus of opinion among Mussalmans to enact this law in a particular way, I wholeheartedly support it. I differed from them and I differ from them even now. I think they are wrong and my conviction will remain until a decision on this point has been given by any High Court. I hope and wish that I may be wrong. I would like, if possible, that an explanation should be added, so that no difficulties may be created in future. If Maulvi Abdul Ghani Sahib's amendments had been adopted then my fears would have been dispelled, my whole object in not supporting that amendment was that it was proposed to be made to clause 2, in which we have got some provisions about divorce, which are new things added at present and therefore I objected to that amendment. I give my wholehearted support to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That the Bill, as amended, be passed.”

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Friday, the 17th September, 1937.