

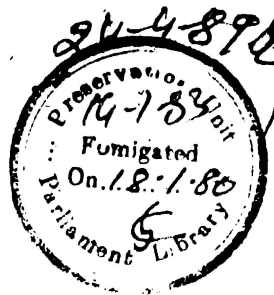
3rd March 1944

THE  
LEGISLATIVE ASSEMBLY DEBATES  
Official Report

Volume II, 1944

*(29th February to 27th March, 1944)*

TWENTIETH SESSION  
OF THE  
FIFTH LEGISLATIVE ASSEMBLY  
1944



LEGISLATIVE ASSEMBLY

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*Deputy President :*

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Mr. N. M. JOSHI, M.L.A.

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# LEGISLATIVE ASSEMBLY

Friday, 3rd March, 1944.

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

## MEMBERS SWORN:

Sir John Francis Sheehy, C.S.I., M.L.A. (Government of India: Nominated Official);

Mr. Charles William Ayers, C.I.E., M.L.A. (Government of India: Nominated Official).

## STARRED QUESTIONS AND ANSWERS.

### (a) ORAL ANSWERS.

#### TRANSFER OF CONTROL OF SORTING DEPARTMENT, ETC., TO R. M. S. SUPERINTENDENT IN KARACHI.

**298. \*Mr. Lalchand Navalrai:** (a) Will the Secretary for Posts and Air please state if it is a fact that Sea-borne Mails and Air Mails were being handled by the Karachi General Post Office?

(b) Is it a fact that from 8th November, 1943, the control of the Sorting Department, Air Mail Department, Letter Export Department, and Foreign Mails was transferred from the control of the First Class Postmaster, Karachi, to the Superintendent of R. M. S., who is of much lower status than the Postmaster of the General Post Office, Karachi?

(c) Why was the control thereof transferred to an officer of much lower status?

(d) Is it a fact that an Inspector of R. M. S. was directly promoted to take over charge of the above Departments from the First Class Postmaster of the Karachi General Post Office?

(e) Is it a fact that the above Inspector has been reverted within a week's time and another Inspector from R. M. S. appointed as Superintendent to conduct the above Departments?

(f) Is it a fact that the permanent staff in the Karachi General Post Office expressed in writing their unwillingness to be transferred to R. M. S.?

(g) Is it a fact that clerical and inferior staff was transferred to R. M. S. against their wishes?

(h) Is it a fact that the selection grade officers in the Karachi General Post Office were not taken up in the R. M. S., and the junior staff in the R. M. S. and in the office of the Director of Posts and Telegraphs, Sind and Baluchistan Circle, were promoted to these selection grade appointments?

(i) Is the Honourable Member aware that the work of Air Mails, Foreign Mails, and Inland Mails has gone into mess?

(j) Do Government propose to appoint an officer of the status of the Postmaster General with experience of Bombay, Calcutta or Madras Post Offices to investigate into the matter?

**Sir Gurunath Bewoor.** (a) Yes.

(b) Yes, but I would like to point out to the Honourable Member that the Superintendent of the R. M. S. is not of a lower status than the Postmaster of Karachi.

(c) The control was transferred in the interests of efficiency of administration and, as already stated, the officer to whom the control was transferred is not of a lower status.

(d) and (e). Yes.

(f) No.

(g) As far as possible, only those were transferred to the R. M. S. who were willing to go over. In the case of others, the transfer is of a temporary nature.

(h) The reply to the first part is in the affirmative and to the latter part in the negative.

(i) The facts are not as stated by the Honourable Member.

(j) No.

**Mr. Lalchand Navalrai:** What greater efficiency is required for taking over the charge of the R. M. S.?

**Sir Gurunath Bewoor:** Because the work is connected with sorting and the R. M. S. specialises in sorting.

**Mr. Lalchand Navalrai:** Is not sorting going on in the Postmaster's office also, where the clerks are doing the same sort of sorting?

**Sir Gurunath Bewoor:** No, Sir. It has now been transferred to the Superintendent, R. M. S.

**Mr. Lalchand Navalrai:** Have they not been doing it in the past? If so, why these people were sent to the R. M. S. when the other people knew the sorting work?

**Sir Gurunath Bewoor:** Sir, due to the increase in work, a new Division, called the R. M. S. Division, with a Superintendent, was constituted in the Sind and Baluchistan Circle. There was not any such separate Superintendent before. Since we constituted this Division with a Superintendent, the work of sorting from the G. P. O. was transferred to the Superintendent, because in the G. P. O. the clerks who do the sorting are liable to be transferred to other kind of work and their experience is lost, whereas in the R. M. S. Division the clerks who do the sorting will continue to do the sorting all their service.

**Mr. Lalchand Navalrai:** May I know if these clerks who have been transferred to the R. M. S. will supersede in promotions and other things the clerks on the staff of the G. P. O.?

**Sir Gurunath Bewoor:** The R. M. S. cadre is separate and has nothing to do with the G. P. O.

**Mr. Lalchand Navalrai:** The clerks who are taken away to the R. M. S. are juniors, as is mentioned in part (h) of the question. Will not these junior clerks supersede the other clerks who are senior to them?

**Sir Gurunath Bewoor:** To part (h) I have answered: The reply to the first part is in the affirmative and to the latter part in the negative.

There is no question of supersession. Promotions to the selection grade posts are made, according to the rules contained in the Post Office Manual, the best people being selected in order of seniority subject to the rejection of the unfit. Certain clerks who are in the G. P. O., if they are willing to come over to the R. M. S., will be taken in the R. M. S. cadre. If they are not so willing, then the people in the R. M. S. cadre will be appointed to the posts.

#### RECRUITMENT TO LOWER GAZETTED SERVICE AT JAMALPUR AND MOGHULPURA WORKSHOPS.

299. \***Mr. Ananga Mohan Dam** (on behalf of **Qazi Muhammad Ahmad Kazmi**): (a) Will the Honourable the Railway Member please state if it is a fact that in the Lower Gazetted Service about 33½ per cent. of posts are reserved for persons to be promoted from subordinate posts and the rest of the posts in the superior cadre are to be filled by direct appointment, either from competitive examinations held in India or by appointment of people from non-Asiatic countries? If not, what is the real fact?

(b) Is it a fact that the 66½ per cent. of the jobs are to be filled by special class apprentices selected after a training of six years at Jamalpur?

(c) Is it a fact that out of the apprentices who are trained at Jamalpur, a number is rejected after a training of four years, and that there is not sufficient number of qualified candidates available for the jobs on Railways?

(d) Is it a fact that the jobs so left vacant are filled up from the subordinate posts and the incumbents are kept as temporary hands for a long period of years

to avoid the technical objection of being more than 33½ per cent. from subordinate grades?

(e) Is it a fact that the persons so taken from subordinate services are mostly Anglo-Indians, who occupy these posts for eight or ten years till they retire?

(f) Is it a fact that the persons so promoted from the subordinate staff have no academic or engineering qualifications except primary education?

(g) Is it a fact that at Jamalpur alone two Works Managers, the Production Engineer and the Personal Assistant to the Deputy Chief Mechanical Engineer, belong to this class of temporary hands?

(h) Is it a fact that similar conditions prevail in Moghulpura Workshops and in the rolling stock side of the Operating (Power) Department on the East Indian Railway?

**The Honourable Sir Edward Benthall:** (a) The Lower Gazetted Service is reserved for the promotion of deserving subordinates. In the Superior Service, 15 per cent. of the total vacancies (which is the same as 20 per cent. of the vacancies filled in India) are reserved for promotion from the Lower Gazetted Service or subordinate services, the remaining vacancies being filled by direct recruitment in India and the U. K.

(b) 80 per cent. of the vacancies filled in India—which is 65 per cent. of the total vacancies—in the Mechanical Engineering and Transportation (Power) Departments are filled by the appointment of Special Class Apprentices who have completed their training.

(c) Yes, but the rejection of some Apprentices has not contributed materially to the shortage.

(d) Vacancies for which direct recruits are not available are filled temporarily by the officiating promotion of subordinates. Promotions in excess of the percentage fixed are neither permissible nor in the public interest.

(e) Promotions are not made on communal considerations and I am not aware of men having officiated for eight or ten years till they retired.

(f) Yes, but their experience is considered sufficient ground for their promotion.

(g) The two Works Managers are direct recruits while the Production Engineer and P. A. to the Deputy Chief Mechanical Engineer are promoted subordinates.

(h) One of the Works Managers is a promoted subordinate. Promoted subordinates are appointed to positions which they are considered fit to hold.

**Mr. Muhammad Nauman:** Is it a fact that 100 per cent. of the L. G. S. are taken by the method of promotions or was it ordered by the Railway Administration that only 80 per cent. will be taken by promotion and 20 per cent. by direct recruitment?

**The Honourable Sir Edward Benthall:** I require notice of that question, but I am under the impression that practically the whole of the L. G. S. are taken by promotion.

**Mr. Muhammad Nauman:** May I ask the Honourable Member to make an inquiry in the matter because the practice has been and we have always been told that only 80 per cent. of the L. G. S. were taken by promotion and 20 per cent. were to be recruited direct. That was the practice before; it might have been changed now.

**The Honourable Sir Edward Benthall:** I do not think that is the case, but I will make inquiries.

**Mr. Lalchand Navalrai:** May I know with regard to part (c) of the question, whether the reply of the Honourable Member was that the cases of persons who have got training for four years and are rejected afterwards will not even be re-examined?

**The Honourable Sir Edward Benthall:** My answer was "yes".

**Mr. Lalchand Navalrai:** Will they not be re-examined or something done for them because it is hard for them to be rejected after four years training?

**The Honourable Sir Edward Benthall:** I understand there is no engagement to take on these apprentices. If they have completed their course, they will be fitted for other work as well.

**Mr. Lalchand Navalrai:** What I am asking is only to remove the hardship. Will the Honourable Member consider this question and try to do something for them. After they have had four years training, they should be given a chance to take advantage of their training?

**The Honourable Sir Edward Benthall:** I do not think there is any hardship.

SPECIAL CLASS APPRENTICES AT JAMALPUR WORKSHOP.

**300. \*Mr. Ananga Mohan Dam** (on behalf of **Qazi Muhammad Ahmad Kazmi**): (a) Will the Honourable the Railway Member please state if it is a fact that the number of special class apprentices taken at Jamalpur used to be five to seven per annum with guarantee of employment?

(b) Is it a fact that recently the number has been increased from ten to twenty, but the guarantee of employment has been taken away?

(c) What is the actual percentage of the qualified persons trained at Jamalpur to the unqualified persons taken from the subordinate grade on various Railways?

(d) In view of the acquisition of the large number of Railway lines by Government and the dearth of qualified persons available for the superior staff, have Government considered the advisability of increasing the number of special class apprentices at Jamalpur or elsewhere and giving them a guarantee of appointment?

**The Honourable Sir Edward Benthall:** (a) Yes, but all the Special Class Apprentices were not given a guarantee of appointment.

(b) Yes.

(c) The information is not readily available.

(d) The number of Special Class Apprentices recruited annually has recently been increased and the question of reviving the guarantee of appointment will be considered when the present conditions have ceased to exist.

**Mr. Muhammad Nauman:** May I know if the rule about the communal quota also applies in the matter of apprentices who are taken there?

**The Honourable Sir Edward Benthall:** I think the answer is in the affirmative, but I should like to have notice of that question.

DISCRIMINATION BETWEEN INDIAN AND ANGLO-INDIAN APPRENTICES  
AT JAMALPUR WORKSHOP.

**301. \*Mr. Ananga Mohan Dam** (on behalf of **Qazi Muhammad Ahmad Kazmi**): (a) Will the Honourable Member for Railways please state if it is a fact that Indian apprentices in the apprentice class at Jamalpur were given Rs. 10, Rs. 15 and Rs. 20 according to the year of apprenticeship, and Rs. 30 per inensem was taken as the price of food supplied to them?

(b) Is it a fact that the cost of food supplied to Anglo-Indian apprentices used to be calculated at the same rate of Rs. 30 per month, and they were given a sum of Rs. 25 per month, irrespective of the year of apprenticeship to make up the minimum of Rs. 55 guaranteed by the Government of India to Anglo-Indians?

(c) Is it a fact that deductions are made from the dearness allowance to which Indian apprentices are entitled due to the increase in the price of food and other articles and similar deductions are made from the allowances of Indian apprentices in the special class, who are not even supplied food, but no such deductions are made from the allowances of the Anglo-Indian apprentices?

(d) If the answer to (c) be in the affirmative, have Government considered the advisability of abolishing this distinction between Indians and Anglo-Indians? If not, why not?

**The Honourable Sir Edward Benthall:** (a) to (d). I have called for information and a reply will be laid on the table of the House in due course.

**Mr. Lalchand Navalrai:** Will the Honourable Member see that no distinction is made between the Anglo-Indians and Indians as that, I think, is the present policy of the Government?

**The Honourable Sir Edward Benthall:** The rules will be adhered to.

**DESIRABILITY OF POSTING A MUSLIM DEPUTY POSTMASTER GENERAL IN THE UNITED PROVINCES.**

**302. \*Mr. Muhammad Azhar Ali:** (a) Will the Secretary for Posts and Air please state if it is a fact that for over a decade there has been no Muslim on either of the two posts of Deputy Postmasters-General in the United Provinces, and will Government please intimate who held the posts in the Circle either in permanent or officiating capacity during the said period?

(b) Is it a fact that complaints have been brought to the notice of the Indian Posts and Telegraphs Department regarding prejudicial treatment to Muslims in the United Provinces?

(c) Is it a fact that the Staff and Establishment Branch was under a junior Deputy Postmaster-General, United Provinces, while the senior Deputy postmaster-General held charge of the Fraud Branch?

(d) Do Government propose to post a Muslim Deputy Postmaster-General in the United Provinces as incharge of Staff and Establishment, irrespective of his juniority or seniority to the other Deputy Postmaster-General to meet the long felt demand of the Muslim community?

(e) Is it a fact that the Deputy Postmaster-General, Staff and Establishment, in the United Provinces, is proceeding on leave? If so, do Government propose to post a Muslim Deputy Postmaster-General on the said officer's relief?

**Sir Gurunath Bewoor:** (a) The reply to the first part of the question is in the affirmative. A statement is laid on the table giving the names of the officers who have held appointments as Deputy Postmasters-General in the United Provinces Circle during the last ten years either on officiating or permanent basis.

(b) Yes. Government are satisfied that the complaints are baseless.

(c) Yes; at one time.

(d) Not at present.

(e) The reply to the first part of the question is in the affirmative; the latter part does not arise in view of the reply to (d).

*Names of officers who held the posts of Deputy Postmasters-General, United Provinces Circle, during the last ten years, either on officiating or permanent basis.*

Mr. Brij Bhushan Lal.  
Mr. W. P. Morley.  
Mr. T. J. Daintith.  
Mr. Bhagat Singh.  
Mr. N. C. Dutt.  
Mr. R. E. Shalom.  
Mr. K. P. Sen.

Rai Bahadur Kundan Lal.  
Rai Sahib (now Rai Bahadur) J. N. Dar.  
Mr. J. H. Owens.  
Mr. (now Rai Bahadur) J. B. Lal.  
Mr. Daulat Rai.  
Mr. P. S. Jaini.  
Mr. J. E. Davison.

**Mr. Muhammad Azhar Ali:** Is it the decided policy of the Government not to appoint for decades any one as Deputy Postmaster-General among the Muslims in the U. P.?

**Sir Gurunath Bewoor:** The policy of the Government is not to make postings on communal grounds. It is not their policy that a Muslim should not be appointed; nor is it their policy that a Muslim must be appointed.

**NON-BOOKING BY MAIL TRAINS BETWEEN DELHI AND MUTTRA.**

**303. \*Seth Sunder Lal Daga:** (a) Is the Honourable Member for Railways aware that no tickets are available from Delhi Main Station to Muttra Junction, and *vice versa*, by the Great Indian Peninsula Bombay Mail and the Bombay, Baroda and Central India Frontier Mail trains?

(b) Does he not think it desirable that as there are no other convenient fast trains between the two stations, and, as Muttra Junction is the headquarters of the district, and is one of the well-known places of the Hindu pilgrimage, the rule against the issue of such tickets be relaxed, and tickets be directed to be issued, as a special case?

(c) Is the Honourable Member further aware that great hardship is caused at the Muttra Junction Station by the rigid insistence on the part of Booking Clerks

on the payment of the exact amount of fares so much so that in case the fare is Rs. 6-15-0, they will decline to accept Rs. 7 and refund even one anna?

**The Honourable Sir Edward Benthall:** (a) The answer to the 1st part of the question is in the affirmative. In regard to the 2nd part of the question, there is now no restriction in the booking of 1st and 2nd class passengers between Delhi main station and Muttra by the B. B. & C. I. Frontier mails.

(b) The Honourable Member's suggestion has been conveyed to the G. I. P. Railway for consideration.

(c) I am informed that Muttra Junction is provided with floating cash in small change and in normal circumstances there is no reason why change of one anna should not be issued.

**Mr. Lalchand Navalrai:** May I know if there is any fast passenger trains between Muttra and Delhi?

**The Honourable Sir Edward Benthall:** Besides the B. B. & C. I. Frontier Mail there are also other trains, 14 Up North East Passenger and 11 Down North East Passenger and on alternate days a Parcel and Passenger train both ways.

**Sardar Sant Singh:** Is the Honourable Member aware that at Muttra the railway staff do not look to the requirements of the passengers promptly and there are very many complaints against them?

**The Honourable Sir Edward Benthall:** I do not think that that question arises, but . . .

**Sardar Sant Singh:** That arises from part (d).

**The Honourable Sir Edward Benthall:** . . . but in the matter of small change the question is being taken up with the railway.

**Pandit Lakshmi Kanta Maitra:** At present is there any restriction with regard to intermediate and third class passengers on the Bombay Mails?

**The Honourable Sir Edward Benthall:** There is a restriction on the intermediate class, I think.

**Pandit Lakshmi Kanta Maitra:** Up to a certain mileage?

**The Honourable Sir Edward Benthall:** Up to 100 miles.

#### ACTION FOR STIMULATING COAL RAISINGS IN CENTRAL AND SOUTHERN INDIA.

304. **\*Mr. K. C. Neogy:** (a) With reference to the Honourable Member's statement in his Budget speech on the 17th February last that nothing would assist the Railway transportation problem more profoundly than a substantial increase in coal raisings in Central and Southern India, will the Honourable Member for War Transport be pleased to state what action is being taken by Railways for the purpose of stimulating such increase?

(b) Is it a fact that certain coal fields in the central parts of the country are at present incapable of development because of the absence of Railway connection? If so, does the Honourable Member propose to make a statement, indicating the policy which the Railway Department proposes to follow for the purpose of providing Railway facilities in the interest of developing coal resources of such areas at an early date?

(c) Will the Honourable Member be pleased to mention any project that may be under consideration of the Railway Department, or may have been suggested by any party concerned, for the purpose of developing coal resources of any such area? Is private enterprise going to be encouraged for the extension of Railway communication to any such area?

**The Honourable Sir Edward Benthall:** (a) Action open to Railways is under three main heads: (i) Purchase of coal; (ii) Supply of wagons; and (iii) Provision of line facilities.

In regard to (i), if coal is of the appropriate quality, Railways will be glad to accept allotment to them of the maximum quantity they can use. In regard to (ii), they endeavour to arrange to supply wagons to meet the total production and this policy will continue. As regards (iii), the Railway Department will give all assistance in its power in furthering proposals designed to increase the coal production.

(b) I understand this is so. In reply to the second portion of the question, the Railway Department's policy is as indicated in the reply to part (a).

(c) This question is one of those engaging the attention of the Coal Commissioner and I am not in a position to make any statement at the present time.

**INVESTIGATIONS FOR SECURING FUEL ECONOMY BY RAILWAYS.**

**305. \*Mr. K. C. Neogy:** (a) Will the Honourable Member for Railways be pleased to state what investigations, if any, are being carried on for the purpose of securing fuel economy by Railways?

(b) What is the approximate proportion of low grade coal that is at present used by Railways?

(c) Has the attention of the Honourable Member been drawn to a statement made by Dr. H. K. Sen, Director, Indian Lac Research Institute, and Chairman of the Fuel Research Committee of the Board of Scientific and Industrial Research, in the course of a series of lectures delivered in December, 1943, at the Patna University, and reported in the Press in the third week of December, to the effect that the Railways use ten million tons of good coal annually which could be substituted by soft coke, and that some of the progressive countries in Europe were already using soft coke for locomotives, and the use of a blend of 80 per cent. coke and 20 per cent. coal was not unusual? Are these statements substantially correct?

(d) What practical action has been taken by Railways during the last twenty years for the purpose of assisting in the conservation of higher grade coal in the country?

**The Honourable Sir Edward Benthall:** (a) Railways have special Branches whose responsibility it is to ensure economy in the consumption of fuel in the various Departments. Investigations are constantly in progress to determine the success of the measures taken and the possibility of further steps to secure reduced fuel consumption.

(b) The percentages of the different grades of coal purchased by State Railways during the last 3 years have been:

	Selected and 1st grade.	2nd grade.
1941-42	66·86	33·14
1942-43	46·80	53·20
1943-44	39·52	60·48

(c) I have so far been unable to obtain a copy of the papers referred to by the Honourable Member but hope shortly to do so. I am unable to comment upon the accuracy of the statements in question.

(d) The Railway Department arranged in 1924 for the preparation of locomotive designs to incorporate the features necessary to enable low grade coal to be burned. All new types of locomotives put into service since 1927 have included these features.

**WANT OF LIGHTS ON BENGAL AND ASSAM RAILWAY TRAINS.**

**306. \*Mr. Ananga Mohan Das:** Will the Honourable the Railway Member please state:

(a) if he is aware that Assam and Bengal Zones of the Bengal and Assam Railway are running trains without any light;

(b) if he realises the difficulties and troubles of the travelling public for want of light, and that travellers not only lose and miss their articles but get injured;

(c) the reason for keeping all the compartments dark; and

(d) what Government propose to do to remove this disadvantage?

**The Honourable Sir Edward Benthall:** (a) Government have received reports that due to lack of bulbs it has been impossible to provide lighting on some trains of the B. & A. Railway.

(b) The difficulties experienced by the public on this account are fully appreciated.

(c) Shortage of train lighting bulbs due to a serious increase in the losses by thefts and to unavoidable delays in obtaining fresh supplies.



(d) Efforts are being made to speed up deliveries from indigenous sources and to expedite supplies by importation to supplement indigenous supplies.

**Mr. Ananga Mohan Dam:** May I enquire whether there will be complete darkness in the trains as long as supplies are not forthcoming?

**The Honourable Sir Edward Benthall:** So long as there is a scarcity of bulbs it is impossible to put them in the carriages, but, as I have stated, we are making every possible effort to expedite the very large arrears of indents for railway requirements both from overseas and also from indigenous production. In the case of indigenous production there has been a shortage of certain raw materials, but I am informed that these are now coming to hand. We are hoping to receive in February 38,000 new lights and about 50,000 a month thereafter.

**Mr. T. T. Krishnamachari:** Is it not possible for the railways to investigate the possibility of using the ordinary oil lamps in place of electric lights?

**The Honourable Sir Edward Benthall:** I think the correct attitude is to try and expedite delivery of those electric lights which have been delayed in delivery.

**Mr. Ananga Mohan Dam:** Will Government consider the possibility of supplying oil lamps in female compartments at least?

**The Honourable Sir Edward Benthall:** I will consider that but . . .

**Mr. E. L. O. Gwilt:** Is there any reason why oil lamps will not be equally stolen?

**The Honourable Sir Edward Benthall:** It is a very pertinent remark. The probability is that oil lamps will be stolen even more than electric bulbs.

**Mr. Frank E. Anthony:** May I ask if there is a shortage of headlight bulbs?

**The Honourable Sir Edward Benthall:** There has been, but steps have been taken as regards this also.

**Mr. Frank E. Anthony:** Have the rules been relaxed as to the use of headlight bulbs?

**The Honourable Sir Edward Benthall:** I should require notice of that.

#### IMPORT OF FARM MACHINERY FROM AMERICA.

**307. \*Mr. T. T. Krishnamachari:** Will the Honourable the Supply Member please state:

(a) whether his attention has been drawn to a reference regarding export to India of \$1,250,000 worth of farm machinery in the Thirteenth Report of the President to the United States Congress on Lease-Lend Operations for the period ending with 30th November, 1943; and

(b) if it is a fact that this quantity of farm machinery has been imported into India; if so: (i) what the nature of the machinery was; and (ii) how it has been distributed?

**The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar:** (a) Yes.

(b) Total value of agricultural machinery received up to end of October 1943 \$1,107,000.

(i) Tractors, Scrapers, Ploughs, Rooters, Milk Cans, Hay Balers and Pressers, Pasteurizers, Harrows, Drills, Cultivators, Trailers, etc.

(ii) Machinery worth \$1,042,000 has been distributed to Military centres like Government dairy farms and the balance worth \$65,000 will be distributed to essential users through stockist agents.

#### INADEQUATE COAL SUPPLY TO INDUSTRIES UNCONNECTED WITH WAR.

**308. \*Mr. K. S. Gupta:** Will the Honourable Member for War Transport please state:

(a) the indigenous industries unconnected with the war already affected for want of adequate supply of coal;

(b) the total output of coal in India from 1940 to 1943 (both years inclusive);

(c) the total export of coal from India to other countries during the years 1940 to 1943 (both years inclusive);

(d) the estimate of export of coal during the year 1944; and

(e) if it is a fact that train service for civilian all over India will have to be cut short for want of necessary output of coal in India?

**The Honourable Sir Edward Benthall:** (a) Almost all industries in the country whether connected with the war or not have been affected to varying extents by coal shortage during recent months.

(b) The total output of coal in India from 1940 to 1942 (both years inclusive) was 88,057,200 tons. It is not in the public interest to publish figures for 1943 at present.

(c) 4,485,050 tons.

(d) No estimate of coal exports during 1944 has been framed. Coal allocations are reviewed by the war Resources Committee of Council every month, and during January and February the only export allowed has been 30,000 tons monthly for Ceylon. If the target of the rationing scheme is achieved, it is intended to allot such quantities for export to the Middle East as may be feasible after meeting India's essential requirements.

(e) It is not expected that the train services for civilians will have to be further curtailed owing to coal shortage.

### UNSTARRED QUESTIONS AND ANSWERS.

#### LATE ATTENDANCE OF OFFICERS IN RAILWAY CLEARING ACCOUNTS OFFICE. •

**91. Mr. Ananga Mohan Dam:** Will the Honourable the Railway Member please state whether the officers in the Railway Clearing Accounts Office are exempt from attending office at the usual time of opening?

**The Honourable Sir Edward Benthall:** No.

#### DEFICIENCY OF TYPEWRITERS IN RAILWAY CLEARING ACCOUNTS OFFICE.

**92. Mr. Ananga Mohan Dam:** (a) Is the Honourable the Railway Member aware that a number of typewriters of the Railway Clearing Accounts Office, were burnt in August, 1942, and the full number required has not yet been replaced?

(b) Is a typist in the Railway Clearing Accounts Office given some special pay for working as stenographer with the Deputy Director in addition to his duties of a typist?

**The Honourable Sir Edward Benthall:** (a) Yes. Out of 19 typewriters 4 were burnt in the fire of August 1942, of which 2 have been replaced.

(b) Yes. He is given Rs. 30 p. m. as special pay for working as a stenographer with the Deputy Director in addition to his pay as a typist.

#### COMPENSATORY CASUAL LEAVE IN RAILWAY CLEARING ACCOUNTS OFFICE.

**93. Mr. Ananga Mohan Dam:** (a) Is the Honourable the Railway Member aware that the staff in the Railway Clearing Accounts Office have occasionally to attend on Gazetted holidays and Sundays, in lieu of which compensatory casual leave is required to be given?

(b) Is it a fact that the Director, Railway Clearing Accounts Office, has ordered that the compensatory casual leave can be availed of within 21 days only, and that it could not be combined with other leave even though the Gazetted holidays or Sundays in lieu of which it was granted could be combined with other leave under the rules?

**The Honourable Sir Edward Benthall:** (a) Yes.

(b) Compensatory casual leave is treated like other casual leave for purposes of combination with other leave or holidays. To avoid staff being called upon to work on more than three successive Sundays and to go without rest beyond 21 days, it has been laid down that compensatory casual leave should normally be granted to the staff within 21 days.

#### TONGA CHARGES FOR LATE WORK TO RAILWAY CLEARING ACCOUNTS OFFICE STAFF.

**94. Mr. Ananga Mohan Dam:** (a) Will the Honourable Member for Railways please state if it is a fact that the staff in the Railway Clearing Accounts Office and other Government of India Offices get tonga charges if they have to work late hours in the evening?

(b) Is it also a fact that the staff in the Railway Clearing Accounts Office have similarly to work late hours in the evening and their main offices are also situated away from city where cheap conveyance is not available?

(c) If the replies to (a) and (b) above be in the affirmative, do Government propose to consider the desirability of granting the same concessions to the staff of the Railway Clearing Accounts Office?

**The Honourable Sir Edward Benthall:** (a) Under certain circumstances the staff in the office of the Railway Board are entitled to conveyance hire if they remain in office after 7 P. M.

(b) Yes; occasionally when the requirements of work make it necessary.

(c) The matter is under consideration.

#### GRIEVANCES OF RAILWAY CLEARING ACCOUNTS OFFICE STAFF.

**95. Mr. Ananga Mohan Dam:** (a) Will the Honourable the Railway Member please state if the General Section, Railway Clearing Accounts Office, is under the charge of the Deputy Director except for purely routine papers?

(b) Is it a fact that requisitions of the various sections for stationery, tools and plants, accommodation, for extra staff, Tariffs and other publications, timely supply of charcoal and *angithies* during winter and *khas ki tatties* during summer are not met expeditiously?

(c) Are Government aware that charcoal supplied to the staff in these days of severe cold does not last for more than an hour or so, nor has adequate number of *angithies* been provided?

(d) Do Government propose to make a thorough enquiry into the matter, obtaining statements of the subordinate and supervisory staff regarding their grievances and take early steps to redress them?

**The Honourable Sir Edward Benthall:** (a) The Deputy Director is in charge of the General Section, routine matters being dealt with by an Assistant Accounts Officer.

(b) No. All legitimate demands are met as expeditiously as possible under the present conditions of supply from the market and the Controller of Stationery, Calcutta.

(c) No. Charcoal was issued at the same scale as last year and there is no reason to think that the scale is inadequate. The number of *angithies* was increased with due regard to increased requirements of the staff.

(d) The question does not arise.

#### PROMOTION TO LOCO. FOREMAN GRADE ON NORTH WESTERN RAILWAY.

**96. Mr. Ananga Mohan Dam:** (a) Will the Honourable Member for Railways please state how promotion to the grade of Loco. Foremen (425—25—475) is made on the North Western Railway sheds from amongst (i) the Shed Fitter Chargemen, and (ii) Drivers, Grade III and IV, and (iii) Shedmen Grade III and IV?

(b) If the percentage of promotions to Loco. Foremen's posts from the three classes noted above differ, will the Honourable Member please state the difference in treatment?

(c) Is it a fact that for the last six years Shed Fitter Chargemen are being promoted in greater proportion than Drivers and Shedmen, although the Chargemen are negligible as compared with Drivers and Shedmen?

**The Honourable Sir Edward Benthall:** (a) The posts of Loco. Foremen (Rs. 425—25—475) are filled by the promotion of Shed Fitter Chargemen who have passed P.6 Course at the Walton Training School. If such staff are not available Drivers Grades III and IV and Shedmen Grades III and IV who have passed the P-6 Course are considered for promotion as Loco. Foremen.

(b) Fitter Chargemen are, in the opinion of the Railway, best suited for promotions to Loco. Foremen and, therefore, there is no question of preferential treatment.

(c) Out of 19 permanent promotions made since 1938, 10 were Fitter Chargemen and 9 were Drivers.

## STATEMENT OF BUSINESS.

**The Honourable Sir Sultan Ahmed** (Leader of the House): Sir, I have to inform the House that in conformity with the arrangements agreed to on Wednesday last, His Excellency the Governor General has been pleased to allot Tuesday next, the 7th March, as an additional day for the general discussion of the Budget and Thursday, the 16th March, as an additional day for the voting of Demands for Grants.

### THE CENTRAL EXCISE RULES.

**The Honourable Sir Jeremy Raisman** (Finance Member): Sir, I lay on the table a copy of the Central Excise Rules,\* 1944.

### ELECTION OF MEMBERS TO THE STANDING COMMITTEE FOR ROADS.

**Sir Gurunath Bewoor** (Secretary, Posts and Air Department): Sir, I move: "That this Assembly do proceed to elect, in such manner as the Honourable the President may direct, six members to serve on the Standing Committee for Roads which will be constituted to advise the Governor General in Council in the administration of the Central Road Fund during the financial year 1944-45."

**Mr. President** (The Honourable Sir Abdur Rahim): The question is: "That this Assembly do proceed to elect, in such manner as the Honourable the President may direct, six members to serve on the Standing Committee for Roads which will be constituted to advise the Governor General in Council in the administration of the Central Road Fund during the financial year 1944-45."

The motion was adopted.

### ELECTION OF MEMBERS TO THE STANDING COMMITTEE FOR THE POSTS AND AIR DEPARTMENT.

**Sir Gurunath Bewoor** (Secretary, Posts and Air Department): Sir, I move: "That this Assembly do proceed to elect, in such manner as the Honourable the President may direct, three non-official members to serve on a Standing Committee to advise on subjects other than 'Roads', dealt with in the Department of Posts and Air, during the year 1944-45."

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

"That this Assembly do proceed to elect, in such manner as the Honourable the President may direct, three non-official members to serve on a Standing Committee to advise on subjects other than 'Roads', dealt with in the Department of Posts and Air, during the year 1944-45."

**Maulvi Muhammad Abdul Ghani** (Tirhut Division: Muhammadan): This is a committee which ordinarily meets during the Session. We do not find fault with the Department for holding the meetings during the Session but certainly the procedure in regard to taking sanction for the introduction of a Bill or certain other things is objectionable. I happened to notice that an amending Bill for the Aircraft Act, 1934, was introduced this time. When it was introduced, the advice of the committee was not taken but when it was to be placed before this House for consideration and passing, then it was placed before the committee and the committee was asked to give its advice. What useful purpose can be served by putting this Bill before the committee at such a late stage, when the Government wants the Bill to be passed. In my view, such a thing is objectionable and should be put an end to. If the committee's advice is at all necessary, then it should be taken before a Bill is placed before the House. With these remarks, I resume my seat.

**Sir Gurunath Bewoor**: The Honourable Member has objected to our placing before the committee a Bill which has already been introduced. I fully sympathise with his objection and we would try in future to place such

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\*Not included in these Debates; but a copy has been placed in the Library of the House.—*Ed. of D.*

[Sir Gurunath Bewoor.]

Bills before the committee if possible before they are introduced. It so happened that both on the last occasion in connection with the Savings Bank Amendment Bill and this time in connection with the Aircraft Amendment Bill, we did not have much time but I have noted what the Honourable Member has said.

**An Honourable Member:** How many times did this committee meet last year?

**Sir Gurunath Bewoor:** Three times, in August, November and February during current financial year.

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

"That this Assembly do proceed to elect, in such manner as the Honourable the President may direct, three non-official members to serve on a Standing Committee to advise on subjects other than 'Roads', dealt with in the Department of Posts and Air, during the year 1944-45."

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim): I have to inform Honourable Members that for the purpose of election of Members for the Standing Committee for Roads and the Standing Committee for the Department of Posts and Air the Notice Office will be open to receive nominations up to 12 O'Clock on Monday, the 6th March and that the elections, if necessary, will take place on Tuesday, the 14th March, 1944. The elections which will be conducted in accordance with the principle of proportional representation by means of the single transferable vote will be held in the Assistant Secretary's Room in the Council House, New Delhi, between the hours of 10-30 A.M. and 1 P.M.

#### THE FACTORIES (AMENDMENT) BILL.

**The Honourable Dr. B. R. Ambedkar** (Labour Member): Sir, I move for leave to introduce a Bill further to amend the Factories Act, 1934.

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

"That leave be granted to introduce a Bill further to amend the Factories Act, 1934."

The motion was adopted.

**The Honourable Dr. B. R. Ambedkar:** Sir, I introduce the Bill.

#### THE PROTECTIVE DUTIES CONTINUATION BILL.

**The Honourable Sir M. Azizul Huque** (Commerce Member): Sir, I move for leave to introduce a Bill to extend the date up to which certain duties characterised as protective in the First Schedule to the Indian Tariff Act, 1934, shall have effect.

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

"That leave be granted to introduce a Bill to extend the date up to which certain duties characterised as protective in the First Schedule to the Indian Tariff Act, 1934, shall have effect."

The motion was adopted.

**The Honourable Sir M. Azizul Huque:** Sir, I introduce the Bill.

#### THE INDIAN INCOME-TAX (AMENDMENT) BILL.

**The Honourable Sir Jeremy Raisman** (Finance Member): Sir, I move:

"That the Bill further to amend the Indian Income-tax Act, 1922, be referred to a Select Committee consisting of Syed Ghulam Bhik Nairang, Mr. Muhammad Nauman, Babu Baijnath Bajoria, Mr. T. T. Krishnamachari, Sir Henry Richardson, Mr. T. Chapman-Mortimer, Mr. Abdur Rasheed Choudhury, Sir Vithal N. Chandavarkar, Khan Bahadur Sheikh Habibur-Rahman, Sir John Sheehy, Mr. C. W. Ayers and the Mover with instructions to report not later than Monday, the 20th March, 1944, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The main object of this Bill is to make provision for carrying out the scheme which I mentioned in my Budget speech for advance tax payments on income which is not now liable to deduction of tax at source.

Before I deal with that scheme, I would like to say a few words about the other provisions of the Bill. I will take clause 2 first. The Income-tax Amendment Act of 1939 enacted in Explanation II to sub-section (1) of section 7 that payments from provident funds not recognised under the Income-tax Act should be taxed and as it was assumed that such payments will be made only at the termination of the employment, the liability was confined to payments made at that time. It has since been found, however, that payments from unrecognised provident funds are escaping taxation because they are made during the course of the employee's service . . . . .

**Pandit Lakshmi Kanta Maitra** (Presidency Division: Non-Muhammadan Rural): What is meant here by unrecognised provident fund?

**The Honourable Sir Jeremy Raisman**: I am afraid I must ask the Honourable Member to study that separately. I could not reply to him offhand, but there are various sections in the Income-tax Act providing for the recognition of certain provident funds in certain conditions, and funds which are recognised in accordance with those conditions are qualified for certain benefits. There is a special chapter in the Act dealing with that.

As I was saying, it has since been found that payments from unrecognised provident funds are escaping taxation because they are made during the course of the employee's service. Clause 2, therefore, proposes to amend the explanation by deleting the reference to the termination of the employment and so making all payments from unrecognised provident funds taxable, unless they are made solely as compensation for loss of employment and not by way of remuneration for past services.

Clause 3 of the Bill amends section 14 (1) of the Act, which exempts any sum which an assessee receives as member of an undivided Hindu family. This exemption was designed to avoid double taxation and it is based on the assumption that any such sum would be taxable in the hands of the family. It has been found, however, in practice that in some cases income which is not taxable in the hands of the family is exempt by virtue of this provision in the hands of the member receiving it, and so escapes taxation altogether. Clause 3 seeks to close this loophole.

Clause 4 proposes to amend section 15 (1) of the Act which gives exemption in the case of life insurance premium. The object of this exemption of course is to encourage assesseees to make reasonable provision for the future. In practice, however, it has been found that in many cases it is being used for the purpose of tax evasion. A typical device is a one-year endowment policy which is nothing but a short term deposit with the insurance company, the amount deposited being termed premium so as to get the benefit of the exemption. The amount when received back from the company may be utilised year after year for securing the same benefit. It is proposed, therefore, to adopt the United Kingdom provision by which the exemption is limited to 7 per cent. of the capital sum assured.

Before coming to clause 5 the only other clauses which I need mention at this stage are clauses 9, 10 and 14. Clauses 9 and 10 extend the right of appeal to cases where registration of a firm is refused or cancelled under section 23 (4), and to cases where an assessee denies his liability to deduct tax from payments to non-residents. Clause 14 makes three changes in the provisions for the computation of the profits of life insurance business. Sub-clause (a) proposes an increase in the amounts allowable for management expenses; sub-clause (b) clarifies the position as regards tax-free securities which, as in the case of other businesses, should be free of income-tax only but not super-tax; and sub-clause (c) clarifies the position as regards the exclusion from gross external incomings of profits on the realisation of assets other than securities.

That is all I need to say at present on the other clauses of the Bill. I now come to clause 5 which is the main feature of the Bill. The scheme set forth in it is designed to put income-tax and super-tax payments as nearly as possible on a pay-as-you-earn basis. It is a basis with which, of course, any taxpayer who derives income from salaries or interest on securities has long been familiar, as in the case of income from these sources the matter is simple; the

[Sir Jereny Raisman.]

tax is deducted at the time payment is made. It is not so simple, however, in the case of other incomes, the amount of which cannot be correctly ascertained until the end of the accounting year. The scheme under the Bill proposes to get over this difficulty by giving the assessee two options. He may elect to pay the tax in four quarterly instalments of the amount demanded by the income-tax officer on the basis of his last assessment. If he complies with this demand, he is saved all further trouble. He will not be subject to any penalty, even though his current earnings may be far in excess of the figure on the basis of which the income-tax officer has asked him to make advance payments of tax; and here I would like to make it quite clear that the payments of tax which assesseees will be required to pay in 1944-45 under the scheme are not payments in respect of 1944-45 assessment, but payments in respect of the 1945-46 assessment. Now, if the assessee thinks that the income-tax officer's demand is excessive, having regard to his current earnings, he is at liberty to make his own estimate and pay tax accordingly; but if the payments are less than 80 per cent. of the tax determined by regular assessment or if he pays too little in the first three instalments, he will have to pay penal interest at 6 per cent. on it.

Furthermore, he may be penalised under section 28 if he makes estimates which he knows to be untrue, or if he fails to furnish estimates in cases where the income-tax officer has not sent him a demand notice. There are two classes of cases where the ordinary provisions of the scheme could cause hardship. One is the case of income from commission, which is payable periodically and is not received or adjusted before the dates fixed for the instalments. In such a case, it is provided that payment may be deferred till after the commission is received or adjusted. The other case relates to the difficulty which an assessee would find in estimating his profits in the early months of his accounting period. It is, therefore, provided that penal interest will not begin to run until six months and fifteen days have elapsed from the beginning of his accounting period. That is a very important proviso; it means that nobody can incur any penalty if he waits until six months of his accounting period have elapsed, before he makes his firm estimate of the basis on which he will choose to pay his instalments. Any guess that he makes before the expiry of six months may serve as a basis for an instalment, but he can suffer no harm provided he does, at the expiry of that six months' period, proceed to make his own estimate. Finally, Government undertakes to pay simple interest at 2 per cent. per annum on all the advance payments paid under the scheme.

Now, Sir, these are the main provisions of the Bill. The object of the principal feature is, as I have explained in my Budget speech, to provide for a further immobilisation of the excess purchasing power in addition to the amounts absorbed by the process of voluntary loan. It is an important part of the Government plan to counter inflation, to check any further price rise and generally to stabilise the economic conditions.

I have only one thing more to say. In drawing up this Bill, we have endeavoured to meet all contingencies, but we realise that there may be points in respect of which the measure may be susceptible of improvement without forfeiting the essential principle of the Bill. We are, therefore, moving for reference to Select Committee, where we hope that we shall be able to explain the scheme in full detail and shall be able to hear and consider any suggestion which may be made for its improvement. Sir, I move.

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

"That the Bill further to amend the Indian Income-tax Act, 1922, be referred to a Select Committee consisting of Syed Ghulam Bhik Nairang, Mr. Muhammad Nauman, Babu Baijnath Bajoria, Mr. T. T. Krishnamachari, Sir Henry Richardson, Mr. T. Chapman-Mortimer, Mr. Abdur Rasheed Choudhury, Sir Vithal N. Chandavarkar, Khan Bahadur Sheikh Habibur-Rahman, Sir John Sheehy, Mr. C. W. Ayers and the Mover with instructions to report not later than Monday, the 20th March, 1944, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

**Dr. P. N. Banerjea** (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I do not wish to make any speech just now, but I wish to ask a few questions for the purpose of clarification.

**Mr. President** (The Honourable Sir Abdur Rahim): If the Honourable Member wishes to make a speech later on, he cannot do it.

**Dr. P. N. Banerjea**: No, Sir. I will only ask certain questions. In clause 3, is any new departure sought to be made from the existing principles with regard to joint families? In clause 5, is it possible for an assessee to make advance payments without a demand from the Income-tax Officer being made? With regard to the question of 6½ months basis, after 6¼ months an assessee will be called upon to make advance payments, some time will be taken to calculate the basis. If it is found that the assessee's calculation has been falsified through no fault of his own, will the penal interest be still imposed? These are the three questions on which I wish to have answers.

**Sir Muhammad Yamin Khan** (Agra Division: Muhammadan Rural): Sir, one thing that I gathered from the speech of the Honourable the Finance Member was that the effect will be in the current year for every assessee to make two payments, that is one payment he has to make for his income of 1943-44, then another payment he will have to make for 1944-45 in advance, and then again he says what we are asking is for 1945-46. I cannot understand that if that is the idea, that three payments have to be made. Or, if the idea is to demand two payments in this year, that is, the assessee has to make two payments of their income-tax and super-tax and everything. I want to know what kind of facility will be given for the payment of this. Is it only what the Honourable Member has just described? Anybody can make payment in four instalments or make a lump sum payment with an interest of two per cent. Will that be a sufficient inducement for any businessman who has to make large payments to have his capital locked up a year in advance and get only two per cent. from the Honourable the Finance Member? All these things are very puzzling. They have to be clarified in greater detail so that the House may understand how it benefits the people and how the Honourable Member proposes to stop inflation by putting up a scheme which may be worked. We also want to know how he expects the scheme to be workable and how it offers an inducement to people whom he wants to lay his hands upon. Will not the payment for two years in one year and that too in advance be supposed to be very excessive by the people concerned? These are some of the points which I want to be clarified at present. I do not want to go into details of the Bill. There will be other opportunities for me to scrutinise when the Bill comes out of the Select Committee.

**Sir Henry Richardson** (Nominated Non-Official): Sir, I do not wish at this juncture to go deeply into any questions on this Bill, but there is just one point which I would have liked the Honourable the Finance Member to have explained. I do not want to embarrass him, and I do not ask for an explanation, if at this stage he is unable to give it. But we feel we would like to know what is the justification underlying clause 5, sub-section (5) wherein the Government say they will pay on any amount paid under this section simple interest at two per cent. per annum from the date of payment to the date of assessment. Now, Sir, as the Honourable the Finance Member has explained, this is going to be allowed to persons whose tax is not deducted at source. There are many people whose tax is deducted every month and they are not allowed any interest on these payments. Why, therefore, should you allow interest to a person who does not have it deducted every month, but who is only going to pay every three months, and to encourage him to pay once in three months, you are going to give him two per cent. to do it. What is the justification for that? I have been unable to understand that and I will be very much obliged, if it does not embarrass the Honourable the Finance Member, if some explanation is given on that point.

**Mr. T. T. Krishnamachari** (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Mr. President, the House does not seem to be in a mood for speeches on this Bill, but I do feel that at this stage the House and the people outside



[Mr. T. T. Krishnamachari.]

must know something more about the Bill than what they do at present as otherwise, an inexpert Select Committee will not be able to achieve very much. Sir, I have not been convinced by the introductory speech of the Honourable the Finance Member of the need for provisions 2, 3, 4 and 5 in their present form. It may be that amendments 2 and 3 are in themselves unimportant and the implications that have been raised can be considered in the Select Committee, but amendments 4 and 5 happen to be rather important amendments to the Act.

I shall deal with clause 4 which is an amendment to section 15. The Finance Member told us why Government have considered it necessary to bring in this amendment. We are in full sympathy with Government in any attempt that they make to counter the efforts of tax-dodgers. I think all respectable insurance companies will come forward and support the Honourable the Finance Member in the matter of these schemes of single-payment policies of the duration of one year and perhaps two or three, as the case may be, which are being taken up by people merely to get some benefit by way of tax relief. But the remedy that has been suggested does not seem at all to fit in with the evil which is now apparent, nor does the question of a similar provision existing in the United Kingdom any argument that it ought to be imported into India at this stage. It may be that my reading of this clause is not correct, but as I read it today and as I have not been benefited by further clarification of the position by the Honourable the Mover, I think it seeks to put the lid on any incentive that people might have to insure for short terms. The question of devising ways and means by which you can deal with these tax-dodgers is one thing; the other thing is not to impose blanket control which will wholly prevent short-term policies being taken up. Nor is there anything inherently evil in a person paying a single premium and getting the benefit about ten years hence or at death as the case may be. It may be that a middle class person who has no provision for a pension wants to provide some kind of income for himself when he chooses to retire, and every year he might pay 1,500 or 1,600 rupees, as the case may be, and seek to obtain the benefit 10 or 12 years thereafter; and he might go on building up reserves for himself to serve him at a time when he would not be earning. That is one type of cases which would not be covered by this amendment. Even as it is, if it is a question of restricting the tax benefit to insurance premia amounts which are not above seven per cent of the capital sum assured, then on a rough calculation all policies which are of a lesser duration than 13 years would not get the full benefit, so far as insurance premia are concerned. It may be that the Honourable Member will be in a mood to consider amendments in the Select Committee, but I do think that the House should know exactly where they stand and the public outside should know where they stand, in order that the members of the Select Committee might be educated into the facts of the situation to help them to evolve a suitable amendment.

But I think the crux of the problem is really in clause 5. I have read the Honourable Member's speech while introducing the estimates for the incoming year to see if there is any justification for this new proposal. Imitation, they say, is the best form of flattery. If we introduce proposals in this country similar to what obtains in an enlightened country like the U. S. A., we perhaps want to approximate our tax methods alongside those of U. S. A. We have heard very much about "Pay-as-you-earn" taxation in America. But what is the justification for this new method of tax collection? Is it anti-inflationary or is it an attempt to bridge the ways and means position of the Government of India? In that case the balance of advantages must be considered. This new method of collection is going to cause more hardship, more administrative difficulties, more administrative charges, and greater inconvenience to assesseees. And the quantum of satisfaction that Government might get either by way of checking inflation or by way of getting a regular flow of money will not fully compensate for all these hardships that the people will have to undergo. I think the proposal ought, therefore, to be dropped.

I can only find one sentence in the Finance Member's budget speech relating to this particular measure. He says.

"In the second place, we must step up in every way the rate of rupee incomings until it equals the rate of rupee outgoings."

It may be that my reading of the speech is not adequate and my understanding is not equal to the problems that are outlined therein. But that, I think, is the only reference and perhaps the only justification for this particular clause. And what is the total extra-yield by way of all these provisions? In this amending Bill that is visualised as 8½ crores. The Honourable Member himself has said that the gap is in the order of 250 crores. It may be that many a mickle makes a muckle. Still I think this class of assesseees need not be singled out for special treatment, without any specific reasons, without telling us exactly how it is going to be anti-inflationary and to what extent. Sir, as I said, I dismiss the possible plea of the income which is derived from this class of assesseees as seeking to bridge the ways and means position. If it does this offer of 2 per cent. interest is something extravagant, as my Honourable friend the Leader of the European Group put it. The treasury bill rate at which Government are able to borrow is somewhere in the region of 12 to 13 annas per cent.; and I think Government are in an extremely charitable mood when they offer 2 per cent. to people who are willing to pay in advance the income-tax due from them. Therefore, I must consider that this is intended as an anti-inflationary effort. I have read such literature as is available in this country on the subject of combating inflation by taxation, considering the restrictions that have been put on the import of books, since import of books does not seem to be covered by the gamut of anti-inflationary activities of the Government of India. Mr. Hicks, a well-known authority on war taxation, dismisses as just an empty gesture this question of taking away money in the shape of small taxes from people, and he stresses more the question of E. P. T. and other types of taxation. I do not really know how this proposal is going to help the anti-inflationary efforts of Government.

With regard to the operation of the provisions themselves I think this House and the public have to consider them at length even at this stage. A very pertinent point was raised by my Honourable friend Sir Yamin Khan, though it might appear that there is a little confusion in the way he put his question. What now happens is that such persons pay tax on the basis of their income earned between 1943-44 for tax due for the year 1944-45. The assessment is always for the year 1944-45. No matter on what it is calculated for persons whose tax is not deducted at source in 1943-44. But the very pertinent point that is raised was this. Are you not going to ask one class of taxpayers all of a sudden to shoulder the burden of payment of tax of two years? That suggested itself to me and suggested itself to a number of other people. It may be that they have to pay tax due for 1944-45 on the basis of their income for 1943-44 and thereafter pay quarterly instalments of tax due for 1945-46. It depends on who is asked to pay. If the whole range of people that have to pay are very rich people it

12 Noon. does not matter very much to them—but it is the middle class man with small resources who would have to borrow to pay the tax for two years in the course of one year. Probably borrowing may also be an anti-inflationary effort—and that perhaps is the idea of the Government of India—you are asking the small man to tie up his capital, to tie up his available resources and tie up his credit in order to pay the tax. Supposing the amount is a large one, it will become difficult for the middleman to pay unless he resorts to borrowing; if the middle class merchant has to pay, say a tax of Rs. 8,000, normally, it will be very great strain to him to pay Rs. 16,000 in one year.

Secondly, the point really is the method of payment and the method of assessment. The Honourable the Finance Member has been very charitable indeed to say that if a man fails to pay less than 80 per cent. of what he is assessed ultimately, than the penal provisions will operate.

**Sir F. E. James** (Madras. European): What about the two per cent. rebate?

**Mr. T. T. Krishnamachari**: Oh! what a magnificent gift! We often pay two per cent. by way of ordinary demurrage charges.

**Sir F. E. James**: More than that.

**Mr. T. T. Krishnamachari**: In regard to this question of 80 per cent., who is to be the judge? My account is audited by an auditor, I send it to the Income-tax Officer, and it depends upon the Income-tax Officer's fancy to accept it or not. It may be that for ten, twelve or fifteen years my record is a perfect one but there are always certain items which can be questioned. I will mention one very common item—bad debts. The question of bad debts is always a tug of war between the assessee and the Income-tax Officer. The Income-tax Officer may say that the period of limitation is over, or that the assessee had not made all efforts to recover monies, and so cannot include it in that year's account. The assessee might say that it is a very legitimate bad debt and therefore he had included it, and it may make a very big difference in the quantum of assessment. Or, it may be that I might get a certain income which to my mind, or in the opinion of my auditor is an amount which is not taxable, but the Income-tax Officer may not take the same view, and he might include it in the assessable figure. That might make a very big difference; it might make such a big difference in the total amount assessable that even penal provisions of section 28 might be brought into operation. Sir, it cannot be said that the department is manned by angels; the Government of India is not manned by angels. There is always trouble even in the case of an account which is legitimate and audited, and what about the accounts that are not audited. If you really want this to be an anti-inflationary move, one very essential provision is needed. By all means mop up the large amounts, by all means put a limit, say this provision will operate in the case of assessees whose assessable income is twenty thousand or twenty-five thousand, as you think fit. But if you are asking small traders and businessmen to fit into this scheme, you are merely making their pilgrimage to the Income-tax offices a more regular feature than what it is today. It has got to be a daily feature instead of being an annual affair. We know exactly what is happening now. Most of the businessmen spend their time in walking round the corridors of the Government offices, what with these Anti-Hoarding Ordinance, what with these various Control Measures, people have to be visiting Government offices in one connection or the other. Unless you do, you can never get things done. And in no other place it is more illustrative than in Delhi where for the smallest matter, a matter which is probably of no account, a matter which the law perhaps does not contemplate bringing within its scope, even for that you have got to come to explain to an officer and the officer is always busy and he will probably ask you to come some time hence. As some one has pertinently suggested, the overcrowding in Delhi is because of the various Ordinances which draw a number of people to Delhi. If this is what happens in the Imperial Secretariat full of picked civil servants, what is going to happen in so far as the Income-tax Department is concerned.

Then, Sir, this question of penalty. My Honourable friend, Sir Henry Richardson, accustomed as he is to dealing in lakhs and lakhs and lakhs, speaks about the 2 per cent. (Interruption.) At any rate, the European in India who does not think in hundreds, can speak about this two per cent.; why give away to Indian people two per cent. when we can mop it up and use it for war budget. This 2 per cent. is an uncalled for gift to the people of India, which the Honourable the Finance Member, out of love and affection, is giving away. I agree. I agree that 2 per cent. need not be given. But you take whatever you are giving. If you are giving 2 per cent. you say that a man who misbehaves shall not get the gift. It is not a question of helping you to get more money by offering this inducement. The penalty that you impose on him if he does not behave, ought to be to take the 2 per cent. away. But I can quite imagine that the Government of India might have even thought of 12 per cent. and perhaps even more as penalty and ultimately decided not to charge an usurious rate of interest as perhaps 6 per cent. was in their view a

moderate penalty. But it is a wrong way of approach altogether. You have to educate people into paying tax in a new way and for educating them starting with a penalty is hardly the proper method. A good educative effort indeed for a start. The imposition of the penalty is purely dependent on the whim and fancy of the Income-tax Officer concerned. It is an impossible position. I challenge any ordinary businessman who gets his accounts audited, if, in seven out of ten cases he will have paid more than 80 per cent. of the total assessable income and there will not be items constituting more than the balance of 20 per cent. which the Income-tax Officer will not finally disallow. All these problems will probably be discussed in the Select Committee. But what good can the Select Committee do in themselves. Government will trot out an explanation for everything. Individual members will explain and put forward problems based on their own experiences, but how can we visualize the difficulties of thousands of people who are going to be put to harassment as a result of this amendment. It might be that more publicity should be given. No taxation Bill gets more publicity than what has been given to this. Sir, I suggest that Members of this House may help the Select Committee with their views on this important problem supported by facts that they may know of and the Government should appreciate.

**Mr. President** (The Honourable Sir Abdur Rahim): I think the Honourable Member is included in the Select Committee.

**Mr. T. T. Krishnamachari**: I am not speaking for myself. I have said that my knowledge is very circumscribed indeed, probably limited to my own experience of income-tax which has not been very happy. But I do think the public will have to take a greater interest in this Bill. Otherwise it will just emerge from the Select Committee as it is perhaps with a few modifications. I think the onus lies on the Government to get more information how it could possibly work.

I am not able to commend the Government for having adopted this novel and latest method of taxation and bringing this country on a par with the most enlightened countries in the world. If it is possible for this provision to be left out of this Bill I have no doubt that the Government will be as well off as they were. What with the state of things as they are today, when the Government can rake in as much money as they want, this particular method of tax collection is not going to greatly help to check inflation. After all we are getting out of the skid of inflation into which the Government got themselves entangled. I think the Government would do well to drop the whole idea of penalising the small taxpayer and at least putting a limit to the operation of this clause so as to leave out assesseees whose incomes are below twenty to twenty-five thousand. That is all I have to say at the moment.

**The Honourable Sir Jeremy Raisman**: I will reply first to Dr. Banerjee's three points. The first related to Clause 3 and I think he asked whether any departure was sought to be made from the existing principle. The answer to that is definitely in the negative. There is no departure and no change is made other than that which I described, which is of a very circumscribed nature and it is intended to prevent sums escaping taxation altogether by virtue of a provision which was meant to save them from double taxation.

His next question was whether in relation to Clause 5 an assessee can make advance payment without a demand from the Income-tax Officer. The answer to that is that certainly he can, and to the extent that he does that he simplifies his own problems and facilitates ours.

His third question was that if the assessee's estimate was falsified through no fault of his own would penal interest be payable. Well, the answer is yes. He has certain opportunities to amend his estimates but if in the end his estimate is still so inaccurate as not to amount to 80 per cent. of the income then penal interest is payable. Of course he always had the option of not giving himself any trouble to make estimates by merely repeating the figure of the last assessment. If he did that then no question arises for him. He gets 2 per cent. on his money even if the amount turns out to be somewhat larger than it need have been. He gets a fair one year's interest of 2 per cent. That

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is quite a fair rate and one of the objects of the 2 per cent. is to encourage people merely to repeat the last figure of which they have definite knowledge and save everybody trouble as well as themselves.

**Sir Muhammad Yamin Khan:** The bank rate is 3 per cent.

**The Honourable Sir Jeremy Raisman:** It is not three per cent. for all purposes. I am afraid there is a good deal of vagueness about these percentages. I am surprised that my Honourable friend, Mr. Krishnamachari, who is, if I may say so, a competent observer of these matters should talk about the Treasury Bill rate in relation to a period which may be at least four times the Treasury Bill period. That relates to borrowings for three months. It is true that it is below one per cent., but it does not follow from that that the appropriate rate at which money may be borrowed for 12 to 15 months is the same. In fact the converse is true. The rate for three months cannot be the same as the rate for twelve.

My Honourable friend Sir Henry Richardson asks why we offer to pay 2 per cent. per annum at all? That I admit has been one of the most difficult questions put to me and I must confess that in the first form of this Bill there was no such provision, but there are two arguments which I can give in favour of it. The first is that penal interest of six per cent. is not very deterrent and the effect of giving 2 per cent. to those who pay their instalments duly, is in effect to increase the penalty to 8 per cent.

The second reason is

**Sir F. E. James:** Not really!

**The Honourable Sir Jeremy Raisman:** Yes, the difference between paying and not paying.

**Mr. T. T. Krishnamachari:** The obvious thing is to increase the rate to 4 per cent. and decrease the penalty to 4 per cent.

**The Honourable Sir Jeremy Raisman:** That is absurd. There is no reason for equality between these two rates. What the Government is prepared to pay is something related to the average rate at which it borrows money for that sort of period, but what should be paid by an individual who does not fulfil his obligations is entirely a different matter.

**Mr. T. T. Krishnamachari:** It is just an inducement. Government have gone in for lottery as well.

**The Honourable Sir Jeremy Raisman:** I would rather not be drawn into various other unconnected subjects. If the Honourable Member wishes to debate that question I have no doubt he can find other opportunities.

I was saying that the second reason for this 2 per cent. was to signalise the true nature of this payment. It is not a tax payment in the ordinary sense. It is after all a payment in advance. We are not altering the whole basis of liability as fixed by the present law.

**Sir F. E. James:** May I ask my Honourable friend whether in the case of a person who has tax deducted at source, is that also payment in advance? Why does he not get the 2 per cent.?

**The Honourable Sir Jeremy Raisman:** That is where the Honourable Member is mistaken. The payment where tax is deducted at source in accordance with the provisions of the Act is not really an advance payment at all. It is a payment of tax which is due by the provisions of the Act at that time, and although it is true that an assessment is made in the subsequent year, there are certain other provisions which indicate that the tax collected during the year is intended to have a more final character than an advance payment. For instance, it is a regular practice, if the rate of tax in the succeeding year is changed, not to apply the altered rate to the deduction already made.

**Mr. T. T. Krishnamachari:** Why don't you ask them to pay at the altered rate? You can pay them the 2 per cent. then?

**The Honourable Sir Jeremy Raisman:** I do not want to be drawn too far into theories underlying taxation enactments, because it is said by a very great man in this field, by none other than the late Lord Stam, that if you attempted to discover the underlying principles of our taxation legislation you would come to some very curious conclusions.

**Mr. E. L. O. Gwilt** (Bombay: European): There is one point which I would like to mention. The Honourable Member is being extremely gracious to people who at the moment are not paying the excess profits tax and I do not think the Government as a whole are losing money.

**The Honourable Sir Jeremy Raisman**: I am not wedded to the payment of 2 per cent. interest. As I have already said, naturally in the first form which this took in my mind, I had no intention of making any payment of interest. I quite see that it is arguable that, after all, what we are doing is to put people in a position in which other tax-payers already are and have been for a long time and that nothing more is due to them. If the general feeling is that this is an unjustifiable provision, I would be quite prepared to drop it and go back to my original idea. At the same time, I would ask that those who support the exclusion of the 2 per cent. interest should support an increase in the penal interest and that it should be put up to 8 per cent. What I am worried about is that 6 per cent. may not really be an adequate inducement.

**Sir Henry Richardson**: Will the Honourable Member support, say, an interest allowed to those who have it deducted at the source of 3 per cent. or more?

**The Honourable Sir Jeremy Raisman**: No, Sir. I regret that, while nothing would have given me greater pleasure than to have fallen on happier years when it is the privilege of the Chancellor of the Exchequer to hand out boons; unfortunately, when my horoscope was cast, that position was not allotted to me. (*An Honourable Member*: "Your star was unlucky.") Yes, my star was unlucky. I was destined to fall on days when screws have to be tightened and not loosened and it is very rarely that I can pick up such crumbs of comfort as even the raising of the minimum taxable limit.

**Mr. T. T. Krishnamachari**: You are lucky in that there is some thread left which you can tighten.

**The Honourable Sir Jeremy Raisman**: There is quite a lot of thread left. That brings me to the Honourable Member's main argument. It seems to me that he entirely misapprehended the importance of this measure from the anti-inflationary point of view and he entirely misapprehended the scope of it. He seems to have thought that the total effect of this measure was included in the 8½ crores which I mentioned as being the result of certain changes in the rate of income-tax and super-tax. That is not the case. The importance of this is many times 8½ crores in the finance of the year. I should estimate it at something like 50 crores. It has the effect of actually raising a large sum of money during a particular limited period. When I said in a previous Budget speech that inflation in India was a short term disease, the critics said: 'Of course, inflation is always a short term disease'.

**Mr. T. T. Krishnamachari**: May I ask one question? Whatever the Honourable Member is getting by way of this particular method of collection is it going to be an addition to his estimates that he has given in his speech? Your income-tax estimates are based on the normal tax collection method.

**The Honourable Sir Jeremy Raisman**: I am afraid the Honourable Member has not studied that part of my speech carefully. If he had done so, he would have realised that the figures for actual estimated additional revenue related purely to taxation measures but that in relation to measures of compulsory deposit they were included in the over-all estimate of 100 crores. That is why the programme is considered by the Government as likely to be effective in dealing with inflation.

My Honourable friend deprecated the importation of examples from other countries like America, and yet I seem to remember that in a previous Session in discussing the question of inflation my Honourable friend expected the Government of India to deal with the subject in ways comparable with those adopted in more advanced countries such as Britain and America. Now, the value of a step of this kind is generally recognised. After all, economics is not quite so obscure and esoteric a science as it is sometimes thought to be. There are only a limited number of ways of dealing with certain economic mal-adjustments. Inflation is a type of economic disease which can be dealt with in

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certain well-recognised ways, and the fact that this measure has been adopted in other enlightened countries merely proves that it is regarded as definitely one of the ways for countering inflation. But I was saying a little while ago that inflation is a short-term disease. My Honourable friend seemed to argue that the effect of a measure of this kind was a very limited one. It is true that its effect is mainly confined to a period of twelve months but twelve months is quite a long time in dealing with a disease of this kind. And if you can keep the situation under control by measures of temporary value, you obviously are in a far better position thereafter to maintain a state of equilibrium and stability. I think he exaggerated the administrative difficulties. We have tried to devise something which, as far as possible, will administer itself and if we could only count on the co-operation of the public, it could completely administer itself because every assessee who chooses to pay instalments on the basis of his last assessment removes all possibility of difficulty either for himself or for the Government.

**Mr. T. T. Krishnamachari:** But incomes are not quite so steady.

**The Honourable Sir Jeremy Raisman:** They may not be. At the same time, we have been going through a period of rising incomes . . .

**Mr. T. T. Krishnamachari:** Not for the businessman.

**The Honourable Sir Jeremy Raisman:** Precisely for the businessmen; certainly not for me, I can assure the Honourable Member. I am afraid, I have been going through a period of drastically decreasing net income, thanks largely to my own efforts. But there, again, that seems to have been in my horoscope. I seem to have been destined to draw the noose ever more tightly on my own neck. However, I was saying we have tried to devise this thing to be as simple as possible. My object was that it should be completely self-administering, and I would hope that it would be accepted by the general body of tax-payers in that way. After all, the worst that can happen to a man is that he may deposit slightly more than the finally assessed tax and he does get, as I said, an ordinary commercial rate of interest on that excess deposit; so he would be no worse off. And the whole thing could work exceedingly simply and need involve no additional machinery. It has been suggested that to expect a man both to pay the tax for last year and also to begin to pay instalments on the current year's profits is expecting a great deal. Well, I do not agree with that.

**Mr. T. T. Krishnamachari:** Because you had never to pay yourself.

**The Honourable Sir Jeremy Raisman:** I have tested that on myself. I do not think that my own form of human nature is particularly transcendental or spiritual. I think that I react to these inconveniences quite as fiercely as the average man. But I remember that not very long ago I found myself in the position of having to pay super-tax on my previous year's income and simultaneously having to pay instalments of super-tax on my current year's income. My reaction was one of relief because, although I have done a great deal of administration of public finance, I must say that I like my private finance to be as simple as possible. I do not like to have to cater for a pretty large demand coming after the end of the year, when I could have liquidated it by steady payments throughout the year during which the income was being received. That was my own reaction, and as far as I remember, it was the reaction of the majority of people similarly placed. They thought, What a good thing: we can now get it off our chest and know exactly how much is our money and how much is the Government's. I would hope at any rate that the majority of tax-payers would take that commonsense view of it and thus, as I say, facilitate their own problems and those of Government. I do not think there is any other point on which I can shed any light at this stage.

**Mr. T. T. Krishnamachari:** What about the insurance clause?

**The Honourable Sir Jeremy Raisman:** I forgot that Mr. Krishnamachari raised that point under clause 4. I see that there is a certain amount of force

in what he said and I shall be glad to discuss the matter in the Select Committee. The evil which this amendment seeks to deal with is one which also existed in the United Kingdom and this was the remedy which they applied. It is possible that it is not in all respects the best remedy and it may be susceptible of improvement. I have an open mind on that. So long as we do deal effectively with the abuse I would be prepared for some modification of the clause as drafted.

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

"That the Bill further to amend the Indian Income-tax Act, 1922, be referred to a Select Committee consisting of Syed Ghulam Bhik Nairang, Mr. Muhammad Nauman, Babu Baijnath Bajoria, Mr. T. T. Krishnamachari, Sir Henry Richardson, Mr. T. Chapman-Mortimer, Mr. Abdur Rasheed Choudhury, Sir Vithal N. Chandavarkar, Khan Bahadur Sheikh Habibur-Rahman, Sir John Sheehy, Mr. C. W. Ayers and the Mover with instructions to report not later than Monday, the 20th March, 1944, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

### THE INDIAN COCONUT CESS BILL.

**Mr. J. D. Tyson** (Secretary, Department of Education, Health and Lands):

Sir, I move:

"That the Bill to provide for the creation of a fund for the improvement and development of the cultivation, marketing and utilization of coconuts in India, as reported by the Select Committee, be taken into consideration."

In moving for consideration I have little to add to what has been stated in the unanimous Report of the Select Committee. The Committee have made a number of changes, all of which are explained in the Report and I shall refer briefly to only two of them.

The Bill originally provided for the financing of the Committee by a levy on all coconuts consumed in mills at a rate of Rs. 3-2-0, that is, 50 annas per ton, equivalent to Rs. 0-2-6 per cwt. This rate was calculated to give the Coconut Committee an income sufficient to meet the probable expenditure during its earlier years with a small margin for expansion or as a guarantee against a fall in crushing and therefore in income. As an earnest, I think, of their faith in the potentialities of the Coconut Committee for good—for the good of the coconut producers and the oil millers—the Select Committee, as Honourable Members will see, have made it possible for the Committee to recommend, and for Government to fix on the recommendation of the Committee, a higher rate of duty. The Select Committee have fixed for this purpose a rate of four annas per cwt. as a maximum as against the original proposal of a fixed rate of Rs. 0-2-6 a cwt. This would enable the Committee to expand its activities without having to come back to the Legislature to provide for a higher duty. The change is accompanied by a rider recommending to Government that the initial rate should be that originally proposed in the Bill. That is a recommendation which Government, I think, will have no difficulty in accepting.

The second change of importance affects the constitution of the Indian Coconut Committee. Honourable Members will recall that in moving for Select Committee I drew attention to the fact that in the Committee as originally provided for we had got two representatives of the Central Government, 9 representatives of the provinces concerned and 9 representatives of the States concerned, the cultivation and milling of copra being, as it happened, pretty evenly divided between four provinces on one side and three States on the other. I also mentioned that we had provided representation in certain proportions for growers and millers and for a few Government nominees who might include experts. In the subsequent debate there was a very general demand for some representation for consumers and for labour interests. The question what constitutes a consumer in this connection has not proved very easy of solution and the Select Committee have therefore adopted the democratic view that the people's representatives may best be relied on to represent interests not specifically provided for in the original Bill, especially consumers' interests. We have in the Select Committee accordingly added three representatives from the



[Mr. J. D. Tyson.]

Central Legislature, and to maintain the balance—because I would remind the House that we have to rely on the three participating States to pass similar legislation so that the Committee may be set up with their concurrence—we have added one each from the three States. This adds six to the Committee but it does not affect the balance between growers and manufacturers or between provincial representation and States' representation. Sir, I move.

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

“That the Bill to provide for the creation of a fund for the improvement and development of the cultivation, marketing and utilization of coconuts in India, as reported by the Select Committee, be taken into consideration.”

**Mr. Govind V. Deshmukh** (Nagpur Division: Non-Muhammadan): At the time when the motion for referring the Bill to a Select Committee was made I said that there should be a real representation of growers, and I still say that even on reading this report, the clause referring to the constitution does not make any provision for the real growers to be on this constitution. What you are thinking of and what the clause suggests is persons representing the growers. They may be non-growers because you contemplate nomination. Let me illustrate. Where there is conflict of interest such things can happen. The most glaring instance that I can give you—this is merely an illustration—is from the constitution of the Union of South Africa, where the interests of the natives are represented in the Union Parliament. The white men, the Afrikaners, represent the interests of the inhabitants there. How can their interests be guarded. They are conflicting. Coming home, I shall give another instance. Could you very well expect, by nominating Sir Cowasjee Jehangir, to look after the interests of the growers of cotton. The man who is interested in buying cotton cheap, how could he be expected to guard the interests of the grower who is interested in getting more money for his crop; and that such things do happen, I can very well say from my own experience. I am very particular as regards the constitution of such committees. Let me give you illustrations of the nature of the appointments made on the Central Cotton Committee. I have often made a complaint that persons who may have small cultivation or may not have cultivation may be nominated by the Provincial Governments. There is nothing to prevent them from being nominated. How could you expect them to guard the interests of the growers? This time, the Government have made a serious blunder in listening to the demand of the traders and the mill owners at the time when there was a meeting of the Central Cotton Committee. What happened was this. The rates of cotton were going up. There were no future contracts as these were prohibited because of the Ordinance. So, the businessmen, the speculators found it difficult to make profits out of the cotton grower. They were anxious to have this ban lifted. Then if you look at the position of the Central Cotton Committee, you will find that the press owners, ginners, mill owners and sundry others are all in a majority on the committee and the growers are in a small minority. The decision is that of the majority, by which you go. The decision is that of the non-growers and the interests of the growers are not properly looked after. It is my grievance that this nomination becomes a sort of patronage in the hands of the Provincial Governments and they do not look to the interests of the cotton grower, the man who grows the cotton, on whom the mill owner fattens himself. Those who have gone through the report of any mill will find that the textile mills have made tremendous profits. I know of a mill which made no profit two or three years ago, whose shares were not quoted in the market and nobody ever thought of that mill. I went through this year's report of that mill. That textile mill, after paying all the expenses, income-tax, E.P.T. and after making 25 per cent. compulsory deposit made a profit of ten lakhs on a paid up capital of 16 lakhs 75 thousand and this happened at a time when the cloth consumer found it very difficult to get cloth and the cotton grower found it very difficult, after meeting expenses, to save anything. I presided over many conferences and resolutions were passed . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member had better leave cotton alone. This Bill has got nothing to do with cotton.

**Mr. Govind V. Deshmukh**: I am pointing out that the interests of the growers are not properly safeguarded and it is in that connection I am referring to what has happened in the case of cotton. I brought this point specifically to the notice of Government and yet I find that no provision is made for the proper representation of the grower. I shall have something to say on this when I move my amendment.

Now, the interests of the coconut growers are not represented by the growers themselves but by somebody else and they will be in a minority. Another thing I wish to say is that you have given two members to three Governments. You have given only one to Bombay. I do not see what made you give Bombay one. Bombay has got a very extensive sea coast and the coconut is grown there on a very extensive scale. Of course, my friend, Mr. Lalchand Navalrai, has a grievance that Sind is not given any.

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Leave it to me.

**Mr. Govind V. Deshmukh**: I am not complaining about my province, C. P. I am connected with Bombay Presidency. The Bombay presidency has a long coast and the coconut industry thrives very well there. I do not know what made the Government do this. Then the consumers are not merely confined to the coastal area of this country. This coconut is an article of food and we are all interested . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member can raise these points when he moves his amendments.

**Mr. Govind V. Deshmukh**: My point is that consumers are not represented to the extent they should be and therefore when I move my amendments I shall point out what the number should be.

**Mr. Lalchand Navalrai**: My Honourable friend, Mr. Deshmukh, is always anxious for the growers. He said today he was not much interested in coconuts, but in cotton—he confused the two things. But there was method in his so doing. Thereby he made out a case for the extension of the constitution of the committee as in the Indian Cotton Committee. I am not concerned with that. But he referred to the condition of Sind in this respect. I find that the Education, Health and Lands Department is not quite aware of the fact that Sind also grows coconuts and has also mills. If they knew it, then they are guilty of not giving representation to Sind on the Committee for production and development of coconut . . . . .

**Sir F. E. James** (Madras: European): How many acres of cocoanut have you in Sind?

**Mr. Lalchand Navalrai**: If there are not many, then we must grow more. Those who have been to Karachi must have eaten coconuts of the Mahatma Gandhi garden at least. But you must help us to grow more . . . . .

**The Honourable Sir Jogendra Singh** (Member for Education, Health and Lands): Will the Honourable Member say what is the area under coconut in Sind?

**Mr. Lalchand Navalrai**: I am asking you to increase it. Why do you charge us this duty in Sind, which we will have to pay? This Bill applies to all as I shall presently show. On the contrary, I think the Honourable Member should have been thankful to me for having drawn his attention to this point so that the object of the Bill may be achieved. The object of the Bill is to improve and develop this industry and it is on that ground that I am asking you to help Sind also. In clause 3 of the Bill we find that a cess is to be imposed—it reads:

“There shall be levied and collected, as a cess for the purposes of this Act, on all copra consumed in any mill in British India, whether produced in or imported from outside British India, a duty of excise at such rate not exceeding, etc., etc.”

You have a mill in Karachi; you have a mill at Sukkur in upper Sind. When you are charging excise from copra manufacturers, they and the growers also shall have to pay. Why do you not increase their production so that they can

[Mr. Lalchand Navalrai.]

manufacture more? Sind has now grown so much that there are many mills of different kinds producing different commodities. There must be progress in this direction also. The committee as proposed to be constituted gives representation only to those places where coconut is being grown and where there are mills. In this way they have given representation to Madras, Travancore and Bombay, Bengal and Orissa and Mysore; why exclude Sind? I hope the Honourable Member and his Secretary will find a way to give representation on this committee to Sind also. It is that the Select Committee has so recommended the constitution of the committee. I am really sorry that I was not on the Select Committee to draw attention to this point. If no amendment can now be made, I would suggest another course. In fact there are two methods . . .

**The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar** (Supply Member): Make Sind a part of Bombay.

**Mr. Lalchand Navalrai:** It is the Government that separated us from Bombay: we never wanted to separate; but all the same we are now separated; and being separate we are asking for a separate share in representation. (Interruption.)

Coming to clause 4(f), it says that one person shall be appointed by the Central Government, since no representation has been specifically provided for Sind, I request the Honourable Member and his Secretary that this seat should always be given to Sind. Further, you have also the power of making rules. In that way also you can provide some help to Sind and it is only fair to do so, where you are charging them duty. Coconut is always grown on the sea-side . . .

**Sir F. E. James:** What about Baluchistan?

**Mr. Lalchand Navalrai:** There is no sea side there. I think the Honourable Member knows that it is all desert there. I cannot say that it has sea side, while our Karachi is on the sea side. . . . (Interruption.)

**Sir F. E. James:** May I interrupt my Honourable friend for a moment? I understand that the actual acreage of coconuts in Baluchistan is the same as it is in Sind.

**Mr. Lalchand Navalrai:** I do not know, but if that is so, then Sind and Baluchistan may be given jointly one member on the committee. But I think we grow more than Baluchistan if it grows at all and we should be given some representative. We should be treated fairly, especially Government should be thankful when Sind has given back all the loan which the Central Government had to get from her; they have been very business like in giving you all or even more and I hope Government will give representative to Sind on this Coconut Committee.

**Mr. H. A. Sathar H. Essak Sait** (West Coast and Nilgiris: Muhammadan): Sir, I record my whole-hearted support to this measure and I have only one word to say; and that is to give my humble apology to this House for failing to be present in the meeting of the Select Committee. It was due to a misunderstanding both on my part and on the part of the Government. I am sorry I could not carry out my duties which were entrusted to me by the House, due mainly to a misunderstanding about the date.

In making this motion, my Honourable friend, Mr. Tyson, mentioned the fact that other parties also have to legislate; and I want to ask him what will happen if one of states or provinces do not wish to come on this body. Will that body function or not? That is a point which I hope will be clarified  
1 P. M. in the reply which the Honourable Member will give. With these words, I give my whole-hearted support to the Bill.

**Mr. J. D. Tyson:** Sir, I should like to express my own regret that it was not possible for my Honourable friend, Mr. Essak Sait, to attend the Select Committee. I know his interest in this Bill and coming as he does from the part of the country which, in the first instance, is likely to be benefited, we should very much like to have had his assistance on the Select Committee. As regards the point which he has raised, we have, of course, very good reason to believe that

the three States to whom it is proposed to give representation on this Committee will pass legislation generally on the lines of this Bill and will come in. It is exceedingly unlikely, as the Bill originally introduced represented an agreed Committee, that they will now back out, for they themselves were very keen on a Committee of this kind. I would rather not, therefore, answer a hypothetical question as to what would happen if they did not act up to the agreement. Certain points have been raised, and I hope my Honourable friend, Mr. Govind Deshmukh, will not consider me discourteous if I keep my answer to his points till I can deal with the specific amendments to which they refer. As regards the points made by my Honourable friend from Sind, I am sorry that he should think that his Province has not received proper consideration. So far as the cultivation of coconut goes, it will be the object of this Committee to step up production wherever production can be stepped up. But I am afraid that I must inform the Honourable Member and the House that if the Committee when it is formed were to double the area under coconut cultivation in Sind, the area would still be the same as it is at present.

**Mr. Lalchand Navalrai:** Why that way? Why will it not increase?

**Mr. J. D. Tyson:** Because twice nothing is nothing. Then as regards representation on the basis of acreage, it is difficult to give representation related to potential development. But there again, if we were to try to relate representation on the Committee to potential development as illustrated by Sind, it would not help Sind for I may say that in 1920, there were 12 acres under coconut cultivation in Sind, and the area increased to 45 acres in 1921. Apparently the experiment was not successful, for after 1922 right up to 1935, the acreage was shown as *nil*.

**Mr. Lalchand Navalrai:** No help was given and that was why it was destroyed.

**Mr. J. D. Tyson:** From the point of view of development, the potentiality of Sind does not seem to be very great.

Then, as regards milling, it is quite true that a certain amount of copra is crushed in Sind, but according to the latest figures available to me, there are only two power mills, and eight, what are called, "expellers", which are, I gather, rather superior machines. I think there are only ten concerns in Sind: their output is fairly large and they are probably pretty big concerns, but there are only ten of them,—which can be compared with figures that run into three digits in the other Provinces and States. I think I have answered all the points that have been made on the consideration motion.

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

"That the Bill to provide for the creation of a fund for the improvement and development of the cultivation, marketing and utilization of coconuts in India, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

**Mr. Govind V. Deshmukh:** Sir, I move:

"That in sub-clause (b) of clause 4 of the Bill for the word 'nine' occurring in the first line the word 'thirteen' be substituted and for the word 'one' in line 3 the word 'two' be substituted."

Now, Sir, I find that the Madras Government have been given authority to nominate two, the State of Travancore has been given the same authority to nominate two persons. If these two Governments are given power to nominate two persons each, I cannot understand why a distinction is made as regards the Bombay Government and the Government of Bengal and the Government of Orissa. They are given only one. The Bombay Presidency has a large coast line and it has a large cultivation of coconut. The soil conditions and the climatic conditions in the Bombay Presidency are very favourable for the cultivation of coconut. It is not that if more encouragement is given, the plantation will not grow more there. I want the principle of giving more representation to growers to be accepted. I have been connected with the Bombay Presidency. I cannot say very much about Bengal or Orissa. I submit that Bengal, Orissa and Bombay should each have two representatives. I submit the amendment I propose is reasonable and justifiable, because if you give encouragement to the Provinces to increase their cultivation of coconuts they will take proper steps to

[Mr. Govind V. Deshmukh.]

do so and thereby you will give a better price to the producers. In this way the coconut cultivation area will increase.

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

"That in sub-clause (b) of clause 4 of the Bill for the word 'nine' occurring in the first line the word 'thirteen' be substituted and for the word 'one' in line 3 the word 'two' be substituted."

**Mr. J. D. Tyson:** Sir, I think the Honourable the Mover of this amendment has not appreciated that the growers' representation is not the only representation which the presidency of Bombay will receive. Bombay also receives two representatives of the oil industry. Now, Sir, it happens that the main interest of Bombay in coconuts is in the milling industry. It is very heavily represented in the milling industry. According to the latest figures available to me, the cultivation of coconuts at present in Bombay is only 28,000 acres. The effect of this amendment, if we were to accept it, would be that for the growers of Cochin, Bengal, Orissa and Bombay—every one of them has less than 70,000 acres under coconut and the whole lot of them put together have less than 160,000 acres—we should be giving the growers of each of those Provinces or States representation equivalent to what we are giving to Madras with an acreage of 585,000 acres, and Travancore with an acreage of 577,000 acres. We have sought to relate it to existing cultivation and, as I said, the areas in Madras and Travancore which have got two members each are far greater than those of the other States and provinces. Incidentally, while I do not claim to be anything of an arithmetician, in the absence of my Honourable friend from Aligarh, I think I must point out that if the amendment were accepted, for the word "nine" we should have to read "fourteen" and not "thirteen". My Honourable friend, Mr. Deshmukh, seems to be a worse mathematician than I am myself!

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

"That in sub-clause (b) of clause 4 of the Bill for the word 'nine' occurring in the first line the word 'thirteen' be substituted and for the word 'one' in line 3 the word 'two' be substituted."

The motion was negatived.

**Mr. Govind V. Deshmukh:** Sir, I move:

"That in sub-clause (b) of clause 4 of the Bill after the word 'persons', the following be inserted: 'growers of coconut, who are not traders or bankers'."

I have referred generally to the disadvantage of traders and bankers being nominated on such committees. The traders are more interested in getting the coconuts at a cheaper price and profiting themselves. If the growers are on the committee in greater numbers they will be sure to protect the growers' interests better than traders and bankers who only want to exploit the growers. It was said that the representation of the growers of coconut was made to depend on the area under cultivation, but I submit that that test in regard to the allotment of numbers is incorrect. What I submit is that the representatives of growers will safeguard their own interests. But that amendment having failed I hope that at least this amendment will be accepted. For instance, supposing Sir Cowasjee Jehangir were appointed or nominated to look after the interests . . .

**Mr. President** (The Honourable Sir Abdur Rahim): I think the Honourable Member had better not mention any names.

**Mr. Govind V. Deshmukh:** I am sorry. But supposing a millowner were nominated to look after the interests of labour, how would he guard their interests? I wish to emphasise by this illustration the same point that traders or bankers are not likely to guard the interests of the growers. I hope this amendment will appeal to Government. Sir, I move.

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

"That in sub-clause (b) of clause 4 of the Bill after the word 'persons', the following be inserted: 'growers of coconut, who are not traders or bankers'."

**Mr. J. D. Tyson:** Sir, the idea behind this amendment certainly commends itself very strongly to Government, but there are practical difficulties to which I must draw attention. For example, take growers. Is the owner of a small

coconut plantation a grower, or an owner, or what is he? Then if he sells his coconut does he become a trader? It is very difficult to say. Then take bankers. Specially in South India there are many people in a small way of business who are moneylenders and might be termed 'bankers'. There is a further difficulty, apart from terminology. The coconut growers are not organised and,—it is just possible,—indeed I understand it is the intention of one of the States to send its Director of Agriculture to represent the growers as the growers are not organised in that State. If we were to accept this amendment that will be impossible. I do myself hope very much that provinces and States will do their very best to send men who are genuine growers of coconuts, under sub-clause (b) of the clause, but I think it would be dangerous to accept the amendment as worded. Sir, I oppose the amendment.

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

"That in sub-clause (b) of clause 4 of the Bill after the word 'persons', the following be inserted: 'growers of coconut, who are not traders or bankers'."

The motion was negatived.

**Mr. Govind V. Deshmukh**: Sir, I move:

"That in sub-clause (g) of clause 4 of the Bill, for the words 'six other persons, of whom two' occurring in the first line the following be substituted: 'eight other persons, of whom four'."

The consumers of coconut are all over the country and this clause contemplates their representation. I submit that as they are all over the country the number fixed by Government is very small. There is another advantage in having a larger number elected by this House, namely, they will represent not merely the interests of the consumers but be an independent body taking an impartial view of the whole scheme, whether it is the interest of the consumers or of the growers or of the traders. This is the only provision which gives a democratic aspect to the constitution and I wish it were followed on a larger scale. I am aware that there are no Associations of coconut growers and no other Associations from which representations could be made to this constitution. This Assembly represents to a certain extent the growers and to a considerable extent the consumers and the increase of numbers will safeguard the interests of the industry as a whole. Sir, I move.

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

"That in sub-clause (g) of clause 4 of the Bill, for the words 'six other persons, of whom two' occurring in the first line the following be substituted: 'eight other persons, of whom four'."

**Mr. J. D. Tyson**: Sir, the difficulty about accepting this amendment is very largely that it swells unduly the size of the committee. We started off in the original Bill with a committee of 20 and I was very anxious to keep it at 20. Out of deference to the very universal expression of opinion in this House we have added three representatives of the Central Legislature, representing primarily the consumers' interests, and to keep the balance we have added one each from the three States whom we have to bring along with us in this matter. The result is that the committee has now 26 and I am afraid I cannot accept any amendment which seeks further to add to its size.

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

"That in sub-clause (g) of clause 4 of the Bill, for the words 'six other persons, of whom two' occurring in the first line the following be substituted: 'eight other persons, of whom four'."

The motion was negatived.

Clause 4 was added to the Bill.

Clauses 5 to 8 were added to the Bill.

**Mr. H. A. Sathar H. Essak Saif**: If you would permit me, Sir, I would like to put this amendment in a little modified form.

**Mr. President** (The Honourable Sir Abdur Rahim): Have you given a copy of this modified amendment to the Government Member?

**Mr. H. A. Sathar H. Essak Saif**: Yes, Sir. I gave a copy to the Honourable Member and the office.

**Mr. President** (The Honourable Sir Abdur Rahim): I take it there is no change of substance.

**Mr. H. A. Sathar H. Essak Sait:** There is no change of substance; the change is only in form. Sir, I move:

"That in sub-clause (h) of clause 9 of the Bill the word 'and' be omitted, that after the said sub-clause the following sub-clause be inserted and that existing sub-clause (i) be re-lettered (j):

'(i) by improving the marketing of coconuts in India and abroad and suggesting suitable measures to prevent unfair competition; and'."

Sir, my amendment seeks to add two more functions to the functions that have already been allotted to this committee. The purpose of the Bill is to provide for the creation of a fund for the improvement and development of the cultivation, marketing and utilization of coconuts in India. But in clause 9 there is no particular item to empower the committee to do all it can in respect of marketing.

**Mr. T. T. Krishnamachari** (Tanjore *cum* Trichinopoly: Non-Muhammadian Rural): One of the objects is to promote marketing.

**Mr. H. A. Sathar H. Essak Sait:** But it is not laid down in the sub-clause. That is why I want the first part of my amendment.

Coming to the second part of my amendment, in speaking on the motion for the commitment of this Bill to the Select Committee I had drawn the attention of the House to the competition that we had to suffer from before the war, from Ceylon. It is quite possible that soon after the war we may again have to face such competition, and therefore I suggest that this committee should be empowered to think out and suggest such measures as may help us in combating and if possible in eliminating any competition which we may have to face after the war. With these few words, Sir, I commend the amendment for the acceptance of the House.

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

"That in sub-clause (h) of clause 9 of the Bill the word 'and' be omitted, that after the said sub-clause the following sub-clause be inserted and that existing sub-clause (i) be re-lettered (j):

'(i) by improving the marketing of coconuts in India and abroad and suggesting suitable measures to prevent unfair competition; and'."

**Pandit Lakshmi Kanta Maitra** (Presidency Division: Non-Muhammadian Rural): Sir, I support this amendment. This amendment seeks to enlarge the scope of operation of this Bill. One important object which this Bill seeks to achieve is to promote the development of cultivation of coconut in India. But any scheme of development should also take note of the fact that in the advanced stages of its development it may have to face competition from countries which at the present moment is absent. We apprehend that after the cessation of hostilities, Indian coconut industry may have to face competition with coconut coming from Ceylon and other countries; and the Standing Committee would then be in a very difficult position and they would again have to come to seek the help of the Legislature for the purpose of enlarging its scope and for the purpose of combating the danger that would develop at that moment. I think this amendment meets that need and, therefore, I support it.

**Mr. Govind V. Deshmukh:** Sir, I also wish to support this amendment. I do not know what the Honourable Member would say. Perhaps he would say that the addition made by the Select Committee to clause 9, namely, "and for such other purposes as the Committee may think fit", covers the scope of this amendment. Or, he might say that the addition made to (i), namely, or which it may itself think necessary or advisable in order to carry out the purpose of this Act", covers this. But I must say that the amendment, which has been moved by my Honourable friend. Mr. Essak Sait, makes the point very clear, and I, therefore, support it.

**Mr. J. D. Tyson:** Sir, I am grateful to my Honourable friend for his amendment. I think it is an improvement in the Bill and we shall certainly on this side accept it.

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

"That in sub-clause (h) of clause 9 of the Bill the word 'and' be omitted, that after the said sub-clause the following sub-clause be inserted and that existing sub-clause (i) be re-lettered (j):

'(i) by improving the marketing of coconuts in India and abroad and suggesting suitable measures to prevent unfair competition; and'."

The motion was adopted.

Clause 9, as amended, was added to the Bill.

Clause 10 was added to the Bill.

**Mr. H. A. Sathar H. Essak Sait:** Sir, I move:

"That in sub-clause (2) of clause 11 of the Bill, before the word 'payable' occurring in line four the words and comma 'if any,' be inserted and the words and comma 'if any,' occurring before the words 'as may be prescribed' be omitted."

The object of this amendment is obvious. It is a drafting amendment and it is an improvement on the Bill as it is. Sir, I move.

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

"That in sub-clause (2) of clause 11 of the Bill, before the word 'payable' occurring in line four the words and comma 'if any,' be inserted and the words and comma 'if any,' occurring before the words 'as may be prescribed' be omitted."

**Mr. J. D. Tyson:** Sir, I am prepared to accept this amendment.

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

"That in sub-clause (2) of clause 11 of the Bill, before the word 'payable' occurring in line four the words and comma 'if any,' be inserted and the words and comma 'if any,' occurring before the words 'as may be prescribed' be omitted."

The motion was adopted.

Clause 11, as amended, was added to the Bill.

Clauses 12 to 20 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**Mr. J. D. Tyson:** Sir, I move:

"That the Bill, as amended, be passed."

Sir, I would only like to express my thanks to the Select Committee who took a great deal of interest in improving the Bill, and to this Honourable House for expediting its passage.

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

"That the Bill, as amended, be passed."

**Mr. Govind V. Deshmukh:** I have to thank the Honourable Member for the way in which he has seen this Bill through. Coconut being an article of food, effect should be given to this Bill as early as possible in order to grow the coconuts on an extensive scale, and I hope the Government will not sleep after getting this Bill passed and the necessary sanction obtained.

**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 for Lunch till Three of the Clock.

The Assembly re-assembled after Lunch at Three of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

#### THE HINDU CODE, PART II (MARRIAGE).

**The Honourable Sir Asoka Roy** (Law Member): Sir, I move:

"That this Assembly do recommend to the Council of State that the Bill to codify the Hindu Law relating to marriage be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of 18 members."

Sir, Honourable Members are aware that in para. 15 of their report, the Hindu Law Committee had expressed themselves in favour of a codification of the Hindu Law by stages, beginning with the law of succession and the law of marriage. The Government of India accepted this view, and this Bill is one of the two Bills drafted by the Committee. The Bill was published in the *Gazette of India* on the 17th May, 1942, under rule 18 of the Indian Legislative Rules, and has been circulated by executive order for the purpose of eliciting public opinion. The Bill was introduced in this House on the 2nd March, 1943. Copies of opinions elicited are already in the hands of Honourable Members; and although I do not deny that some of the opinions are critical and even



[Sir Asoka Roy.]

hostile, the opinions on the whole are in favour of the principle of the Bill. The controversy mainly centres round the question of introducing monogamy and the application of the doctrine of *factum valet* to sagotra marriages. I think this controversy can best be resolved by a free and frank discussion in the Joint Committee to which I propose that this Bill should be referred. The committee will also be in a position to consider other objections which have been urged or which may be urged against the Bill, and if necessary to modify or alter the provisions of the Bill so as to make them acceptable to the community. I assure my Honourable friends that Government has no intention of taking any precipitate action in so important a matter touching the Hindu community. It is the intention of Government to move for the circulation of the Bill after it emerges from the Joint Committee, so that the community may have a further opportunity of studying and expressing its opinion on the Bill and the changes, if any, that may be made by the committee in the Bill.

There is just one other matter to which I should like to refer. Honourable Members are aware that on the 10th November last, my Honourable friend, Mr. Govind Deshmukh, moved for reference to Select Committee of his Hindu Marriage Disabilities Removal Bill. In the course of that debate I had stated that I should do whatever was possible to try and have this Bill referred to the Select Committee in the next Session; or in other words, in the course of the present Session. I hope that Honourable Members who have given notice of their intention to move for circulation of the Bill will withdraw their motions, and that this motion of mine will have the unanimous approval of the House. Sir, I move.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): Motion moved:

"That this Assembly do recommend to the Council of State that the Bill to codify the Hindu Law relating to marriage be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of 18 members."

**Babu Baijnath Bajoria** (Marwari Association: Indian Commerce): Sir, I move:

"That the Bill be circulated for the purpose of eliciting opinion thereon, by the 31st October, 1944."

**Mr. N. M. Joshi** (Nominated Non-Official): You are now wasting time; he is agreeable after the Select Committee meeting.

**Babu Baijnath Bajoria**: I know so much English; I can follow him. I have heard the speech of the Honourable the Law Member and I know that he has assured this House that after the Bill is referred to the Select Committee and after the deliberations of the Select Committee, the Government will agree to the circulation of this Bill for eliciting public opinion on it.

**Mr. N. M. Joshi**: Then why do you speak?

**Babu Baijnath Bajoria**: Wait and hear; and he has asked me and other Members who have given notice of moving this circulation motion to withdraw those motions. I find myself in a difficult position to accept his suggestion. There are several reasons for that. First and foremost reason is that if this House agrees to refer this Bill to the Select Committee, the House becomes committed to the principles of this Bill. (Interruption.) You will hear everything. After I have finished, if you have any further questions to ask I will be only too pleased to answer them. I on my part do not accept in the least the principles of this Bill. I will give in detail the principles of the Bill later on and my views thereon.

The Bill has not been circulated properly at all. The time given for sending opinions was very short. The Bill was circulated in June, 1942.

**The Honourable Sir Sultan Ahmed** (Leader of the House): And it is only 1944!

**Babu Baijnath Bajoria**: The time given for opinions to reach the Government was, if I remember aright, August, 1942, and no opinions received after that date can be considered on their merits. Government did not extend the time for receiving replies to this Bill from the public till 1944. If they had done so, probably my case for sending the Bill for eliciting public opinion thereon would have been weak, but, as a matter of fact, they did not do so.

If I remember aright, the time which they gave was only about a couple of months. It was not at all sufficient for a Bill of this nature, which, as the Honourable the Law Member himself admitted, is one which affects all the Hindus and is a very important one. The Bill, was sent for eliciting public opinion thereon,—opinion from whom? From the Bar Library, from the lawyers, from the Judges, but not from the people of this country. Marriage affects even the humblest of the humble in this country, but no attempt whatever has been made to get the opinion of the people. Judges may be very eminent persons, if I say anything about lawyers, I shall probably be heckled by the galaxy of lawyer friends in this House. (Interruption.) In all these matters affecting religion and social customs, judges and lawyers have their own sentiments and their own opinions.

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): They are also married and unmarried.

**Babu Baijnath Bajoria**: They are married, most of them I think.

**An Honourable Member**: Officially!

**Babu Baijnath Bajoria**: Unfortunately, these lawyers and judges are mostly imbued with western ideas and thoughts than with Hindu tradition, culture and spirit. I am not making a sweeping remark against all the lawyers, but, Sir, many of them belong to this group.

**Pandit Lakshmi Kanta Maitra** (Presidency Division: Non-Muhammadan Rural): What do you think of me?

**Babu Baijnath Bajoria**: You can express yourself. You are here. In my opinion, the Bill should be circulated even in villages and opinions should be received from the village panchayats.

**Sardar Sant Singh** (West Punjab: Sikh): In the English language?

**Babu Baijnath Bajoria**: Not in the English language, but in the provincial languages.

**Dr. P. N. Banerjee** (Calcutta Suburbs: Non-Muhammadan Urban): All the important languages of India.

**Babu Baijnath Bajoria**: Important languages of the provinces. In Bengal from which I come and from which you, Sir, as well as the Honourable the Law Member come,—this Bill was only published once in the *Calcutta Gazette* on the 18th June, 1942, and it was not translated into any other language and it was not published in any newspaper. May I ask the Honourable the Law Member how many people can have access to the *Calcutta Gazette*? It is not obtainable. People do not read it. It only circulates among the official classes, and under the circumstances, how can you get the opinion of the public? I may say that the text of this Bill has not appeared in any daily newspaper. Only some substance of it may have appeared here and there, which is not at all sufficient to give a full and considered opinion on a Bill of such an important nature. If opinions are taken from the masses, from the whole of the Hindu community, I dare say that 95 per cent. of the population will be against this Bill, and I may even say that the opposition will even be stronger from the womenfolk than from the menfolk.

**An Honourable Member**: How do you know? (Interruptions.)

**Babu Baijnath Bajoria**: Further, I will say that the present is not the proper and opportune time to rush forward with a Bill of this kind. We are living in war conditions and it is not at all proper that a Bill of this importance should be gone through now. Apart from war conditions, this Government, according to its own admission, is on its last legs. They themselves have said that after the war they will go and hand over power to Indians.

**Sardar Sant Singh**: Wait and see.

**Babu Baijnath Bajoria**: The Bengal Government—I am more concerned with their opinion than with the opinions of other provinces—have said this. I will read a few lines, I will not take much time.

"In view of the controversial nature of the proposed legislation and the intricate questions of law and customs which are involved, the Government of Bengal are of opinion that the consideration of the Bills may be postponed till after the war."

[Babu Baijnath Bajoria.]

I would have given notice of a straight motion to that effect as I did on the last Bill, that is, the Hindu Intestate Succession Bill, but unfortunately you ruled that motion out of order. So, I have no alternative but to move a motion like this. The Honourable Sir Sultan Ahmed, the then Law Member, said when I moved the motion for eliciting opinion on that Bill, "Even if this Bill goes for eliciting public opinion for several years, I will not change". I admit I will not change, but he has changed.

**The Honourable Sir Sultan Ahmed:** No, he has not.

**Babu Baijnath Bajoria:** That Bill and this Bill have gone out of his hands.

**The Honourable Sir Sultan Ahmed:** That is right.

**Babu Baijnath Bajoria:** I think that by the time this Bill comes after eliciting public opinion the present Law Member also will have gone.

**The Honourable Sir Asoka Roy:** You may be right!

**Babu Baijnath Bajoria:** It has also been said time and again that if the National Government comes in with Congress at the helm of affairs, they will pass measures of this kind and then my cry will be a cry in the wilderness. I do not agree with that. I would rather like the Congress or the reformers come in, and let them take the full responsibility of passing measures like this. One or two measures of this type, if passed by them, will kill all their credit in the country. At the present time what the reformers say when they meet any men of the opposite view is this: "It is the British Government that is doing all this. It is for that reason that we want to drive away this Government". Then they will not have all those excuses and they will be shown in their true colours. When they have no responsibility, they talk in an irresponsible manner but when they have to shoulder responsibility they will be of a different frame of mind.

Sir, I think I have made out a case for the circulation of the Bill . . . .

**The Honourable Sir Sultan Ahmed:** To your own satisfaction?

**Babu Baijnath Bajoria:** . . . . and I think to the satisfaction of the House, barring yourself. The Honourable the Law Member said that this Bill only introduces one main change and that is the abolition of polygamy and it only validates *sagotra* marriages on the principle of *factum valet*. I do not think this Bill is so simple as the House is asked to believe. I will give you some of the main principles of the Bill as I read it. First and foremost this Bill recognises two forms of Hindu marriage, one a sacramental marriage and the other a civil marriage. Hindu civil marriage is a thing which no true Hindu will ever accept.

**Mr. D. K. Lahiri Chaudhury (Bengal: Landholders):** How do you define 'true Hindu'?

**Babu Baijnath Bajoria:** Shut up. I stand on my own legs. A true Hindu cannot accept civil marriage at all.

**Mr. D. K. Lahiri Chaudhury:** What is a Hindu?

**Babu Baijnath Bajoria:** It may be argued that it is embodied in the Special Marriage Act and Hindus conform to that form of marriage. I will with your kind permission read the Preamble of the Special Marriage Act of 1872. I am not a lawyer. If I am mistaken as regards any legal matters, I shall be only too pleased to be corrected by the Law Member or the Leader of the House. The Special Marriage Act of 1872, before it was amended by Dr. Gour's Act of 1923, read as follows:

"Whereas it is expedient to provide a form of marriage for persons who do not profess the Christian, Jewish, Hindu, Muhammadan, Parsi, Buddhist, Sikh or Jaina religion. . . ."

Every conceivable religion on the face of the earth! This Act was for those persons who did not profess any religion or in other words, atheists or, as we call it in Hindi, *nastiks*. This Act was meant for those persons alone. Then, thanks to Dr. Gour, the word "Hindus" stepped in. Hindus of his way of thinking, he thought, did not want to swear before a Registrar that they did not profess any religion. So, they said—let some addition be made in this Act, so that we may not have to swear that we are not Hindus and for that reason let us be treated even as outcastes. Then provisions were made in this Act

which I shall presently read to you and on those very assurances and on those very stipulations, sections were introduced into this Act and Dr. Gour's Bill was passed. In the Preamble it was added:

"and for persons who profess the Hindu, Buddhist, Sikh, or Jaina religion."

And it legalises marriages between persons each of whom professes one or other of the following religions, that is to say, the Hindu, Buddhist, Sikh or Jaina religion. At the same time, I think I may mention that they suffered from disabilities. They were more or less like outcastes or civilly dead as regards their own families were concerned. I will read sections 22 to 26 all of which the present Bill has cared to delete except section 24.

"Section 22. The marriage under this Act of any member of an undivided family who professes the Hindu, Buddhist, Sikh or Jaina religion shall be deemed to effect his severance from such family."

He was turned out of the family:

"Section 23. A person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act shall have the same rights and be subject to the same disabilities in regard to any right of succession to any property as a person to whom the Caste Disabilities Removal Act, 1850, applies,

Provided that nothing in this section shall confer on any person any right to any religious office or service, or to the management of any religious or charitable trust."

So he was debarred in that way:

"Section 24. Succession to the property of any person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act, and to the property of the issue of such marriage, shall be regulated by the provisions of the Indian Succession Act, 1865."

They were not to be governed by the Hindu law:

"Section 23. A person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act shall have any right of adoption.

Section 26.—When a person professing the Hindu, Buddhist, Sikh or Jaina religion marries under this Act, his father shall, if he has no other son living, have the right to adopt another person as a son under the law to which he is subject."

Dr. Gour persuaded the then Members of this House and the then Government of India to agree to these provisions and to allow the so-called Hindus of his way of thinking to marry under this Act and he agreed even to go to the extent of incurring all these disabilities which virtually means, in my opinion, that he ceases to be a Hindu at all. (*An Honourable Member* "Outcast"?). Yes. That is not my word. This is the word of the Rau Committee itself. If you will read page 11 of this Explanatory Note, it says:

"As for the other sections, it is worth reconsidering whether, e.g., a Hindu marrying a Hindu should be treated as an outcast merely because he has entered into a civil marriage rather than a sacramental marriage."

All these disabilities are now to go and the so-called marriage of the Hindus under the Civil Marriage Act will be brought on an equality with Hindu sacramental marriage. Sir, I, for one, and millions of Hindus who are of my way of thinking, will never agree to this thing. There can be only one form of Hindu marriage and that is the sacramental marriage. I cannot accept this principle and so I cannot accept the Select Committee motion. Probably, this point has not entered into the mind of the present Law Member.

**Dr. P. N. Banerjea:** He is not the author of the Bill.

**Babu Baijnath Bajoria:** He has done the work of a post office. He has only moved that this Bill be referred to a Select Committee and I do not know if he agrees with all the principles of the Bill himself.

Another objection why I do not agree that the civil marriage and the sacramental marriage should be brought on parity is that at the present moment every true Hindu thinks that the marriage under the Special Marriage Act is not a Hindu marriage at all; it is a Christian marriage. It is openly said that it is a *sahibi Bibah*. Neither the issues of persons contracting marriage under the Special Marriage Act are allowed to marry the issues from the sacramental marriage. This is a very fundamental objection which I have got. If you put these two forms of marriages on the same parity, then they will say that both these marriages stand on the same footing and therefore the issues of one marriage can marry the issues of the other marriage. That would only mean the contamination and pollution of the Hindu society. The main object of this Bill, in my opinion, is that the stigma or the disabilities

[Babu Baijnath Bajoria.]

from which people who marry under the Special Marriage Act suffer at the present moment should be removed and there should not be any difference whatsoever between a sacramental marriage and a civil marriage. Probably after ten years or so the next Law Member will come forward with another Bill and he will move that the sacramental form of marriage should be deleted altogether.

**Mr. D. K. Lahiri Chaudhury:** How do you define a sacrament?

**Mr. Lalchand Navalrai:** It is defined in the Bill.

**Babu Baijnath Bajoria:** I will explain it to you later. There also a fraud has been perpetrated on the sacramental marriage.

Sir, I rather pity the framers of this Bill. They pose to be Hindus; they are eminent jurists and eminent lawyers; but in my opinion the spirit of Lord Macaulay must be smiling in the Heaven that he has at last got certain men who can be said to be his true agents to mould Hindus of the type he wanted.

I would like to have some answer from the Honourable the Law Member to the question that I have raised, namely, whether the issues of the sacramental marriage will be allowed to marry the issues of persons marrying under the Special Marriage Act as contained in this Bill.

**The Honourable Sir Asoka Roy:** What would you like?

**Babu Baijnath Bajoria:** I have already said what I would like; probably the Honourable Member was not hearing me. In my opinion, if it is to be a Hindu Marriage Bill, there should be only one form of marriage. The Special Marriage Act is already there for those Hindus who want to flout the Hindu Shastras. They can marry under that Act and keep themselves separate as they are doing at present.

Now, I will refer to some of the principles which the sacramental form of marriage introduces according to this Bill. And let me assure you I won't touch very much on the civil marriage portion because I have got very little to do with it. If the civil marriage portion is altogether deleted from this Bill, I shall be very happy. Now, the first principle which this Bill lays down is the abolition of polygamy. Here, the House will agreeably be surprised that I support the abolition of polygamy and insist on monogamous marriages. I have taken the opinion of several learned Pandits and they have informed me—and I accept their authority much better than I do the authority of the lawyers (and lawyers include the Law Member himself)—that the Hindu law as propounded in the Shastras does not allow any Hindu to marry as many wives as he likes according to his own sweet will. What the Pandits have told me has been rightly reproduced in the Explanatory Note which reads thus:

"According to early Hindu Law monogamy was the approved rule and polygamy was an exceptional provision. It was only when the wife was barren, diseased or vicious or when she consented, that she could be superseded and a second marriage could be validly contracted."

Polygamy is now a dying institution. Polygamy is very rare amongst the Hindus, if for nothing else, for the cost it involves.

**Mr. Jamnadas M. Mehta** (Bombay Central Division: Non-Muhammadian Rural): Money cost or happiness cost!

**Babu Baijnath Bajoria:** Both. This is especially the case in the upper strata of society where wives are really white elephants. It is difficult to maintain one and to provide for all she wants. How can a poor husband afford to have more than one wife? (Interruption.) This Bill does not contain any provisions for the rights and duties of husband and wife and I think that has been left to later instalment of the codification. So, I shall not say about rights and duties. If you like, I can go into them in detail.

**Mr. N. M. Joshi:** Take pity on us.

**Babu Baijnath Bajoria:** If I am not interesting to you, you may go to sleep. I think, Sir, this Bill, as far as the abolition of polygamy is concerned has gone rather too far. I have already said that I accept the principle. I insist on monogamous marriages even in cases where no issue is born. In such a case, we should adopt a son, and that is what is being done in practice, no second wife

is taken in marriage because there is no issue by the first marriage. In my community polygamy is practically unknown. If at all such cases are very rare. Still I have read the few opinions which have been circulated to us and even those, who are most insistent on having monogamous marriages and who want to abolish polygamy, are also of opinion that we should not in the first instance make this clause so strict as has been done in this Bill. What are the provisions for the abolition of polygamy in this Bill. The Bill goes so far as to make those marriages void and applies sections 494 and 495 of the Indian Penal Code. In all other matters—to which I will refer later on—even in the case of a *sagotra* marriage, they have taken the troubles of putting forward the plea that because such a marriage has been done and it is an accomplished fact and so they cannot make it void. But here, they must make it punishable. I say, Sir, this is clearly English conception of polygamy. In my opinion, marriages should not be made void, if necessary some punishment should be imposed, but on no account should marriages be invalidated. If marriages are made void, it is the women who suffer most. I, Sir, am the greatest champion of the cause of women. I want that women should be good wives, good mothers and they should go to heaven, they should have salvation. On the other hand, what are these reformers doing? They lead women to abyss. So, Sir, as regards abolition of polygamy is concerned, Government will be pleased to accept the view which I have expressed and which is the utmost which the Hindu society is prepared to go to.

Coming to the next point in this Bill as regards sacramental marriages, there are two provisions, sections 4 and 7, the one is quite contradictory to the other. I am not a lawyer. I have not been able to understand the difference between the two. First of all, it says that—

“a sacramental marriage may be solemnised”—*I think, Sir, may is a dangerous word—*“between any two Hindus upon the following conditions, namely:

- (a) neither party must have a husband or wife living at the time of marriage;
- (b) both the parties must belong to the same caste;
- (c) if the parties are members of a caste having *gotras* and *pravaras*, they must not belong to the same *gotra*, or have a common *pravara*;
- (d) the parties must not be *sapindas* of each other;
- (e) if the bride has not completed her sixteenth year, her guardian in marriage must consent to the marriage.”

Sir, these are certain restrictions which are placed on sacramental marriage. I have already dealt with the first one about the abolition of polygamy. I quite agree with (b), (c) and (d) because they are just according to our usages and customs obtaining at the present moment. As regards part (e) it says that the bride, if she has not completed her sixteenth year, should take the consent of her guardian. Why, Sir, this limit of 16th year? In a sacramental marriage, it is the guardian that gives away the girl in marriage to a husband. This restriction about age limit should go away altogether and the clause should read that the guardian must consent to the marriage. Even in the case of a civil marriage, the bride has to take the consent of the guardian if she has not attained the age of 21. What astonishes me most is clause 7 which says:

“No sacramental marriage solemnised after the commencement of this Act shall, after it has been completed, be deemed to be, or even to have been, invalid merely by reason of one or more of the following causes, namely:

- (a) that the parties to the marriage do not, or did not, belong to the same caste.”

I submit, Sir, this takes away Clause 4 (b) absolutely. Sub-clause (b) of clause 7 says:

“that the parties belonged to the same *gotra* or had a common *pravara*”.

Whereas sub-clause (c) of clause 4 says:

“... they must not belong to the same *gotra* or have a common *pravara*”.

In this way, Sir, clause 7.(b) nullifies clause 4 (c). Sub-clause (c) of clause 7 further says:

“unless there was force or fraud that the consent of the bride's guardian in marriage to the marriage was not obtained.”

This means that even if the minor girl under 16, if she has not obtained the consent of the guardian and if she is married, the marriage is to be deemed to be valid. This means that the present measure explicitly encourages intercaste marriages, *sagotra* marriages, and thirdly what I would call “free love” marriages.

[Babu Baijnath Bajoria.]

I cannot understand this question of *factum valet*. They say that if a marriage has taken place, the position of the girl becomes very awkward and, therefore, something must be done for her. First of all such cases of negligence or error on the part of guardians are and will be very very rare indeed because when a marriage is to be solemnised, the first thing which the guardian of the bridegroom asks the guardian of the bride is "what is your *gotra*, what is your caste." These are such elementary principles of a sacramental marriage that it is impossible to understand how a mistake can be made. And even if a mistake is made you must punish the guardians for it. Instead of doing that what you are doing is to validate these marriages unconditionally. This question of *factum valet* appears only in the explanatory notes; it does not appear at all in the Bill itself. So, now according to the Bill if a marriage has taken place it must be deemed to be valid. If that is the intention of the authors of the Bill the best course is to delete all these provisions from clause 4. Some people say, what is the harm? There should be inter-caste marriage. And my Honourable friend, Mr. Deshmukh, even at the age of 65 is after *sagotra* marriages. *Sagotra* marriages should not be held valid under sacramental marriages. As regards inter-caste marriages the House will remember that Dr. Bhagwan Das brought in a Bill before this very House to validate these marriages among Hindus and this very Government opposed that Bill. I also opposed it and that Bill was thrown into the dust-bin. What has happened during these few years to change the views of Government so radically? I made a lengthy speech at that time and I think that convinced the House. I will refer the House to that speech and if they will take the trouble to read it I think they will again be convinced. I will only say that according to Hindu Shastras inter-caste marriages are forbidden altogether. *Anuloma* marriages were allowed, i.e., a Brahman could marry the daughter of a Kshatriya, Vaishya or Sudra, but not *vice versa*. But these also were allowed during *Satyayuga* and *Tretayuga* and *Dwapuryuga* but not in *Kaliyuga*. These marriages are expressly forbidden and the children of such marriages are termed *Varnashankara*; and a good deal has been written about the harm that will accrue to society by having *Varnashankaras*.

Then as regards *Sagotra* marriages I will be very brief because I have to speak on many topics. *Sagotra* marriages also are totally forbidden and it is very repugnant to Hindu society. I have spoken to many people including many women and the idea was nauseating to them. Our Shastras say that the issue of a *Sagotra* marriage is a *Chandala*, i.e., a man of the lowest caste who helps in funerals. Sir, I shall, with your permission, read one verse from Manu to prove that a *Sagotra* marriage is absolutely forbidden:

"*Asapindacha ya matuhu asagotrashcha ya pituhu  
Sa prashasta dwijateenam dar karmani maithune.*"

Which means that for the twice-born, i.e., Brahman, Kshatriya and Vaishya the wife should not be of the same *sapinda* from the mother's side and should not be of the same *gotra* from the father's side. There seems to me to be no reason for validating such marriages as is sought to be done in clause 7. For people who want to perform *sagotra* marriages or inter-caste marriages or any other sort of marriages, there already exists the Special Marriage Act and there is no need to bring them within sacramental marriages. As regards this question of error much capital has been made in the explanatory notes by quoting Sir Gurudas Banerjee. So far as errors are concerned, the Shastras explicitly mention that in case of such error the husband must give up that wife but must maintain her like a mother. But if Members of the House think that it is a difficult thing and she does not want to be treated as a mother but should be treated as a wife, I am even prepared to give them the liberty of marrying under the Civil Marriage Act. In that case there will be no hardship. But you cannot have a sacramental marriage without the sanctity which is due to it. If there is an error first of all those who have committed that error must be punished. Instead of that they go scot-free and you make the marriage valid. There is no sense in it. If the couple want that they should live as man and wife they may

be given the liberty of marrying under the Civil Marriage Act and that will be a legal marriage though not a sacramental marriage.

Now, I will speak about free-love marriage which is allowed under this Bill. Under sub-clause (c) of clause 7 even if no consent from her guardian is obtained, a girl can marry. That is to say, suppose any Hindu belonging to any caste elopes with a girl of the same or another caste or of the same or another *gotra* and of any age. The ceremonies which this Bill considers essential for a sacramental marriage are (i) invocation before a sacrificial fire and (ii) *saptapadi*. According to me these are not sufficient essentials. What they have to do is to elope, go to some place, have some fire in a pot and just go round it several times, and the marriage is complete. And such a marriage will be considered sacramental. It passes my imagination, Sir, where such a marriage is defined as sacramental. I think even the Law Member will agree with me that such a marriage cannot be called sacramental. But his Bill allows it. I have already exposed the futility of this Bill and if the Honourable Member agrees with me on these points, I am sure he will not tolerate a Bill of this nature.

Now, Sir, about ceremonies: Clause 5, as I have already said, lays down two ceremonies which are essential to the validity of a sacramental marriage. They are: (i) invocation before the sacred fire; and (ii) *saptapadi*, that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire. But what about *Kanya dan*? Without *Kanya dan* there cannot be any sacramental marriage. The girl must be given away by her guardian to her husband as a gift. I personally think that the omission of this provision cannot be an accidental error; there must be some ulterior motive behind this.

**Dr. P. N. Banerjee:** Has the Law Member got any ulterior motive?

**Babu Baijnath Bajoria:** No. I have already exonerated him, because he has acted as a post office. It is the Rao Committee which is responsible.

**The Honourable Sir Asoka Roy:** But still you want to see me out of office.

**Babu Baijnath Bajoria:** I don't want to see you out of office, but I want that the Bill be so much delayed that your term of office may expire.

Sir, there are several other essentials to the validity of a sacramental marriage, and it will be impossible to define them in this Bill. For instance, there must be a priest—no mention is made here of that. Then lineal ancestors of the bride and of the bridegroom—*vamsavali*—have also to be recited, *i.e.*, that the bridegroom is son of such and such, grandson of such and such and the bride is the daughter of such and such and grand-daughter of such and such and so on. There are so many rituals which have to be performed and this Bill does not make any reference to those. The definition of sacramental marriage, as it is given here, is simply a farce. The authors of the Bill think marriages of all kinds must be permitted but polygamy must be abolished. In their opinion that is one main thing which must be done, otherwise the Hindu Society is doomed to go to pieces.

Coming to *sapindas*, I must thank the members of the Rao Committee for at least they have retained this restriction. But, unfortunately, here again the definition of *sapinda*, as it is given in the Bill, is absolutely wrong. It says 'five generations on the mother's side and seven generations on the father's side', and then again it goes on 'mother's father's mother's father' will also be *sapinda*. Who says that?

**An Honourable Member:** Law Member.

**Babu Baijnath Bajoria:** After father and mother, it must be father, grand-father and great-grand-father and so on, and mother's father's father's father and so on, but it cannot be father's mother's mother's mother. An illustration is given here:

"A is the son's daughter's son's daughter of C, who is the mother's father's mother's father of B. Here C, the common ancestor, is the fifth generation from A in the father's line and the fifth generation from B in the mother's line. A and B are *sapindas* of each other."



[Babu Baijnath Bajoria.]

As I have already said, Sir, it is a jurist's explanation; it cannot be the Shastric or the pandit's explanation. In the explanatory note it is stated:

"It is not quite clear from the texts or the commentaries whether the computation, after the mother or the father, is to be restricted to male ancestors only or whether it extends to female ancestors as well. G. C. Sarkar appears to think that there is no reason to restrict it only to male ancestors. The illustrations under the definition follow this view."

Sir, there is another clause in this Bill which I have not been able to follow at all. It is clause 23(4). As it is a very small one, I will read it:

"(4) Nothing in this Act shall affect the jurisdiction of a Court to prohibit by injunction an intended marriage arranged by the guardian, if in the interests of the minor the Court thinks fit to do so."

What is the meaning of it? It means that the Court has got an over-riding power to prohibit any marriage whatsoever if it thinks that the bride is minor and the marriage should not be performed. I think that is the meaning of this clause; it gives an over-riding power, a blanket control to the Court in the case of all marriages. Sir, I do not agree with that; nobody will agree to such a thing.

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar** (Supply Member): That is the law now.

**Babu Baijnath Bajoria:** I do not think so, Sir. Anyway, I would like to have some explanation about it. Even in the case of Sarda Act if the bride is less than 14 years, there is a provision that injunction may be issued. But here it is a general clause:

"Nothing in this Act shall affect the jurisdiction of a Court to prohibit by injunction an intended marriage arranged by the guardian, if in the interests of the minor the Court thinks fit to do so."

Sir, I do not agree that such unrestricted powers should be given to a Court to prohibit any marriage whatsoever. Such provisions only lead to blackmailing and corruption. When the Sarda Act was discussed here, Sir N. N. Sarkar, the then Law Member, said that this Act comes only into operation when a person complains, either when he wants to extort some money from the bridegroom or the bridegroom's father or the bride's father, or if he has got any grievance or grudge against any of them. The same thing will happen here and I should think in a wider sense. This is not at all reasonable. Sir, if the question of marriage which the Hindus consider to be so sacred is toyed in this way I would rather submit that the best course would be to repeal Hindu marriages altogether. Let it be enacted by Ordinance. Then the Government would not have to come before this House. Let it be settled that all Hindus must be married under the Christian law or they must be governed by Christian law or Muslim law.

**Sardar Sant Singh:** Why should they be married at all!

**Babu Baijnath Bajoria:** If the abolition of polygamy is good for the Hindus it is also good for the other communities in this country. Even Sir Sultan Ahmed will have to be much bolder than he is now to bring forward a measure for the abolition of polygamy in his own community. The whole question seems to me, Sir, that it is not that the reformers in India do not realise these things, but by their training, habit and conduct, they take special pleasure in polluting the sacred laws and wounding the feelings of the Shastra-abiding Hindus like myself. It is rather unfortunate that Government are now supporting them. Government have thrown to the winds Queen Victoria's Proclamation of 1858.

**Sardar Sant Singh:** This proclamation died when the Communal Award was given.

**Babu Baijnath Bajoria:** Sir, I will now come to the end of my speech if only to please my friend, Mr. Joshi. There is one question to which I would refer. If this Bill is going to the Select Committee, as I think it will in spite of my protest, unless better sense prevails with Government, that Committee should consist only of Hindu Members. I do not mean any disrespect to members of the other communities. I am far from doing it. But I think it is only meet and proper that this question which affects Hindus only and in no way affects the interests of Muslims and Christians and European Members.

these latter should not be taken on the Select Committee. They are likely to be misunderstood as I will say frankly and openly they were misunderstood when they went into Select Committee on the Hindu Intestate Succession Bill.

I would repeat the request which I made the other day to the Leader of the Muslim League Party and to the Leaders of the other Parties that only Hindu Members should go in and others should refrain from going into this Select Committee. I will give a few instances—the *Shariat* Bill, the *Wakfs* Bill and

**Maulvi Muhammad Abdul Ghani** (Tirhut Division: Muhammadan): What about Sarda Marriage Bill?

**Babu Baijnath Bajoria**: In these Bills only Muslim Members were sent to the Select Committee:

**Mr. H. A. Sathar H. Essak Sait** (West Coast and Nilgiris: Muhammadan): In the *Shariat* Bill there were Bhai Parma Nand and Dr. Deshmukh.

**Babu Baijnath Bajoria**: Then I stand corrected, but two wrongs cannot make one right. If there have been wrongs in this matter it should be put right. With these few words, I move for circulation.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): Amendment moved; "That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st October, 1944."

(At this stage, Sardar Sant Singh stood up in his seat.)

**Some Honourable Members**:. Order, order, Mrs. Ray.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): Order, order. Mrs. Ray.

**Mrs. Renuka Ray** (Nominated Non-Official): The Bill which has been drawn up by the Rau Committee and which has been before the Select Committee for a whole year after being introduced in the Legislature is one which receives the support of Indian women and of the major women organizations in regard to the main points. As this Bill is incomplete in itself we welcome the move to send it to a Select Committee.

Before I enter into a discussion of the outstanding features or deal with the points that have been raised by Babu Baijnath Bajoria, I should like to answer a challenge that has been levelled against educated Indian women, against those women who have been fighting for the rights of their sisters so that the nation as a whole can progress. They have been called social butterflies: they have been called "a coterie of educated women unrepresentative of the country. This is the charge that has been levelled against the women who are today fighting shoulder to shoulder in every field of service—social, educational and political in this country: who today in Bengal are working ceaselessly during the food crisis. They have been called social butterflies. I do not think it is in the nature of butterflies to face serious responsibility or to think about their duty to the nation. If such women exist, they are the creatures of this man-made system which wants women only to be bedecked, jewelled up, the pleasure things of man, with no ideals, rights or responsibilities.

Then we have been called a handful of educated women unrepresentative of the country. I agree that educated women in India are a handful, but I should like to ask that in a country where literacy is only 8 per cent. of the total population, how many men can boast of education? If women are to be denied the right to voice the grievances of their sisters, what right, I ask, even the Members of this Legislature have to make laws which have far reaching effects on the nation as a whole. These arguments are being advanced even in this House and that is why I have to refer to them. It is the paucity of arguments of those who oppose changes which makes them advance such arguments against the women of India.

Now, I will go into the outstanding features of the Bill. This is a motion to refer the Bill to select committee and unlike my friend, Babu Baijnath Bajoria, I will not enter into details, I will only discuss the main principles of this Bill.

First of all, the Bill deals separately with sacramental and civil marriages. In regard to civil marriage, my friend, Babu Baijnath Bajoria, has gone into

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very great detail but there have been no changes made in the existing law in regard to civil marriage: it is merely a restatement of the present position. It merely removes a few anomalies and it is only a necessary corollary to a comprehensive code and there is no revision of the law, and so there is really nothing to discuss in it.

**Babu Baijnath Bajoria:** What about the revision of sections 22 to 26 of the Special Marriage Act.

**An Honourable Member:** Do not interrupt.

**Babu Baijnath Bajoria:** I shall not interrupt.

**Mrs. Renuka Ray:** I would not go into this matter at all, because it is a matter of detail which we can go into in Select Committee; but I will answer one argument he has brought forward, if the Honourable the President will allow me; and that is this: he said that the Hindus who are married under the Special Marriage Act are not Hindus. Sir B. L. Mitter, the Advocate General of India, has said that "they are Hindus—they may be called protestant Hindus if you like, but they are Hindus". They believe in the Hinduism of the Vedas, and not in man-made rules which can surely be changed by man.

I will take the main features in the sacramental marriage. The first feature is, of course, the enforcement of monogamy. I hardly think that it should be necessary in the 20th century to support this clause and even Babu Baijnath Bajoria himself says that he supports it, although later on he made certain points which do not show that he really supports it. Now, the framers of the Bill have said that "neither party must have a husband or wife living at the time of the marriage". If we go back to the ancient times, as Babu Baijnath Bajoria himself pointed out, monogamy was the rule, and polygamy an exceptional circumstance. There were certain legal justifications in those days, necessary for a man to marry a second wife; but these justifications do not exist today.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

That is the first point I want to make—that Manu; and even before Manu, mutual fidelity in marriage has always been enjoined in Hindu law and in the Hindu shastras. I do not understand how this fidelity can be considered to be only a one-sided affair. I do not want to say—and it would indeed be a gross exaggeration and false propaganda for any one to say—that polygamy is common in India, or that it is the common fate in store for most Hindu women. That is not true. Polygamy is rare; but at the same time wherever a man wants to take advantage of it, this loophole is there; it is in the statute book and they can take advantage of it. What is the fate of the woman who has to go to law for redress? I would like to ask members of this House, what right does law allow them? The only right that the law allows a woman whose husband marries a second time without her consent and with no justification, is that of living in the dwelling house and of maintenance. Can the Honourable Members of this House contemplate such a fate for their own sisters and their own daughters with equanimity and can Hindu society tolerate this sort of injustice any longer? The integrity of the Hindu family is considered of paramount importance. There are many who would say that divorce or any dissolution of marriage is against and is abhorrent to their principles; and yet the man is allowed to disrupt his family without any cause whatever, with no justification; and the only justification that was needed in ancient times is not needed today. I would like to sound a note of warning to those who consider themselves the custodians of our moral virtues, though polygamy has become rare in Hindu society, there has been a distinct rise lately: in every province. Ever since the All-India Women's Conference started its agitation against the disabilities, that women suffer in law, they have received scores of letters from women giving most pathetic stories of their own lives after their husbands had married again. I had more than one woman coming to me recently, and saying "If you like, we are willing to appear before the

members of the Legislature and to tell them our own stories". I have had letters from members—even men have written—to say that in recent times, men who have been getting Commissions in the army or new jobs and who want to live in more modern or perhaps anglicised ways, are discarding their first wives and marrying again, for no better reason but that they are not educated and they are not adequate companions. Instead of educating their wives they marry a second time. Unlike Babu Baijnath Bajoria I do not for a single moment hold a brief for these women who knowingly become second wives of such men; but I do think that it is our duty to represent these less fortunate sisters of ours, whose fate, through no fault of their own, is worse than widowhood.

Now, it has been argued by some that if monogamy comes in there will be greater immorality. I want to ask—can immorality and infidelity become moral virtues because they are given legal sanction? I do not think I will dwell longer on this aspect of this case, because I really do not think any Hindu who really wants the good of Hindu society can possibly object to this provision in the Bill. The Bill has made no provision for dissolution of marriage on any ground. I do not want to advocate light divorces. That is not our standpoint; but if those reasons for which a man was allowed in olden days to marry a second wife are made reasons for grounds of dissolution of marriage and those reasons apply to a man and woman equally, we would certainly advocate this. But we do not think that there is any reason for continuing to have polygamy in Hindu society.

In regard to restrictions on caste and caste barriers the framers of this Bill have been very cautious and very slow in their approach—very conservative in fact. They have made a certain concession, that once the marriage is solemnised then if the two parties belong to different castes or the same *gotra* or *parvara*, it may not be called in question. This concession has only been made for the case of girls who are married by mistake of their guardians. But I wish and this is the wish of the representatives of the women's organisations also, that the framers of the Bill would have gone further. Those who believe in progress, who want Hindu society to be built on solid foundations in the present, as it was in the past, want that these barriers should be broken once and for all. They are not only totally against the democratic ideals for which we are striving today, they are not only out of gear with the economic necessities of present day India, but they are really the greatest stumbling block to the unity that we desire so ardently. I felt almost a momentary despair for my country when I heard Babu Baijnath Bajoria talk in such scathing terms about *Domes* and *Chandals*, who are his own fellow countrymen, apart from being fellow human beings. Any way I know that his voice does not represent the India of to-day.

Sir, India as well as the rest of the world is thinking in terms of post-war reconstruction. India hopes for a post-war world wherein under a free and National Government she might be able to go ahead in economic and social matters and this will be the basis of her future prosperity. In the new economic structure a decaying and outworn system of laws can find no place whatever. All rational Hindus want to preserve all that is best, all that is finest and most intrinsic in Hindu law, but if blind prejudice gets the uppermost, it will become very difficult to preserve it because in the force of circumstances along with the bad all that is good will get ruthlessly swept away. Hindu law, if it is to be preserved, must get rid of the deadening influence of outworn customs which like weeds are choking up the very life springs of Hindu society. Those who to-day want to bind and fetter the Hindu law will one day be responsible for its complete disintegration. Hindu law has always changed with changing times and circumstances. Those who are to-day opposing everything, even changes which are in entire conformity with the ideals of Hindu society are going to be really responsible for its future disintegration. My Honourable friend, Babu Baijnath Bajoria, spoke a great deal about the will of the people. I have said before in this House and I maintain here, that if a referendum is taken to-day, if by any means the informed will of

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India, particularly of Indian youth, is obtained, we will find that they will not support these partial reforms only; they will go very much further. The only method that we have to-day of finding out what the people think is through the press. The press in India, in spite of many obstacles, have continued to portray the will, and the desire of the people, and they have given their full support to these reforms.

I am sorry that I have taken so much time of the House . . . .

**Honourable Members:** No, no. Go on.

**Mrs. Renuka Ray:** Before I conclude, I should like to inform the Honourable the Law Member of the appreciation of the women of India for his action in reappointing the Rau Committee. It was always our desire that a wholesale and comprehensive codification should take place. Now, when this Bill comes back from the Select Committee and has been considered by the country, and so also the Intestate Succession Bill, and a whole comprehensive code is ready to be enacted, it will be much better that it all comes in together. This Legislature can then enact an entire code which, while deriving its authority from our ancient laws, will yet be in conformity with our times.

**Sardar Sant Singh:** After the eloquent speech of the two speakers that have preceded me . . . .

**An Honourable Member:** Only Hindus are allowed.

**Sardar Sant Singh:** . . . . and the exposition of Hindu law as given by my Honourable friend, Babu Baijnath Bajoria, on which I congratulate him, it is not for me to speak at length. I will refer only to the provision which relates to the two kinds of performance of marriage as given in the Bill. I only want to bring to the notice of the Honourable the Law Member and also of the other Members of this House, the serious difficulty I find myself in and I hope that the Committee, which is proposed to be constituted for consideration of this Bill later on, will look into it. Firstly, in the Bill I find that there is no definition given as to what the expression, "Hindu" means and the communities affected by this Bill. That is point No. 1. Clause 5 lays down two ceremonies which are essential to the validity of a sacrament marriage. I just want to inform the House that the marriage system prevailing among the Sikhs to which the Validating Act, Anand Marriage Act of 1909, gave sanction, is not mentioned in this Bill at all. In section 2 of the Anand Marriage Act of 1909, Act VII of 1909, it is enacted that:

"All marriages which may be or may have been duly solemnized according to the Sikh marriage ceremony called 'Anand' shall be, and shall be deemed to have been with effect from the date of the solemnization of each respectively, good and valid in law."

Under clause 5 of the Bill, as it stands, I am afraid it may have the effect of throwing doubts upon marriages performed according to Sikh rites as validated under Act VII of 1909.

**Mr. Lalchand Navalrai:** That Act is not repealed by this Bill.

**Sardar Sant Singh:** I never said that, I never used that expression. Probably my Honourable friend, the Law Member, thinks that clause 8 of the Bill which refers to civil marriages and which reads:

"A civil marriage may be contracted under this Act by any person professing the Hindu religion with any other person professing the Hindu, Buddhist, Sikh, or Jaina religion upon the following conditions, namely:— . . . ."

covers the case of Sikhs. In this clause the Sikh community is mentioned separately, but reading it with clause 4 it is doubtful whether it covers the validity of the marriage ceremony known as Anand Marriage prevailing in the Sikh community. Clause 4 says:

"A sacramental marriage may be solemnized between any two Hindus upon the following conditions. . . ."

Here the words are: "any two Hindus". It is a fact that among the Sikhs and among the Hindus intermarriages are very common. We have the same *Bandas*, *Gotras* and castes, there is difference only in our profession of religion. It is a very common thing that a Sikh family marries into a Hindu family and *vice versa*. Therefore, there is an obvious lacuna in the Bill. I will ask,

therefore, that before this Bill is finally reported on by the Select Committee this aspect of the question should not be lost sight of and the provisions of the Anand Marriage Act should be kept in mind by the Members of the Select Committee. For this purpose, I will suggest that in the proposed Joint Committee there should be Sikh Members so that they may be able to present their point of view before the Joint Committee.

**Mr. Ananga Mohan Dam** (Surma Valley *cum* Shillong; Non-Muhammadian): The study of physical science has developed in us a predilection for mechanisation and uniformity. We want to see a rigid uniformity in our activities forgetting that progress and development are not inconsistent with variation and diversity. But the Hindu Law Committee seems to think that uniformity is the only way of social and national progress. Hinduism is not a definite dogmatic creed like Christianity or Islam but a vast complex subtly unified mass of spiritual thought and realisation. Its tradition of God-ward endeavour of the human spirit has been continuously enlarging through ages.

Other religious systems start with this or that particular experimental datum but Hindu philosophy of religion starts from and returns to an experimental basis and this experimental basis is as wide as human experience itself.

Every other religion of the world depends upon the life or lives of some personal founder or founders. Christianity is based on the life of Christ. Muhammadanism is based on the life of Muhammad. But Hinduism is based not upon persons but upon principles. Sri Krishna is not the authority of the Vedas but the Vedas are the authority of Sri Krishna himself.

**Major Nawab Sir Ahmad Nawaz Khan** (Nominated Non-Official): What do you know of Islam, to enable you to compare it with other religions?

**Mr. Ananga Mohan Dam**: I understand its general features. The glory of Sri Krishna is that he is the greatest preacher of the Vedic principles. Hinduism is based on fundamental universal principles with enough scope for details of variations.

The Hindus have got a hoary past at the back and we should look back and drink deep at the eternal fountains that are behind. According to Swami Vivekananda, to the Hindu mind there is nothing higher than the religious ideal. That is the key-note of the Hindu life. It is not only true that the religious ideal is the highest ideal. It is the only possible means of work. Work in any other line, without strengthening this, would be disastrous. Our life blood is spirituality. When the life blood is strong and pure, no disease germ can live in that body. If it flows clear, if it flows strong and pure and vigorous, everything is right. Political, social and any other material defects will be cured if that blood is pure. Hence in every reform, political or social, we should have our gaze fixed on our national ideal of spirituality.

Hindu law as enunciated by our *srutis* and *smritis* are very elastic and allow enough scope for new developments in accordance with the variable conditions of time and place. It can adjust itself to the growth of public opinion. (*An Honourable Member*: "Come to the Bill itself".) Yes. I am coming to that. It can adjust itself to the growth whenever necessary. But the codified law is bound to be rigid and will require the help of the Legislature for its amendments at every step. If the Law Committee expects that this codification will bring finality to Hindu law, I think they are expecting too much.

Sir, Hindu law has been administered in India for thousands of years without a uniform code applicable to all parts and in this respect it can be compared, according to veteran lawyers, to the great Common law of England, which still governs principal subjects of every day life like contracts and torts. The English society does not find the administration of this uncodified law difficult and uncertain. If certain changes here and there in Hindu law are found necessary, they can be introduced by special legislation rather than by comprehensive code. In a vast continent like India, with innumerable differentiations of caste and sects and usages and various administrative differences in the

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Native States and British India, it is extremely difficult to have an ideal code applicable to all denominations of Hindus in all parts of India. Even in the different States of the United States of America, there are conflicts of law in matters of marriage and divorce. So codification cannot be expected to bring uniformity in diverse systems of Hindu law as is proposed by the Hindu Law Committee.

Sir, before going into the details of the Bill . . . . .

**Dr. P. N. Banerjee:** You cannot go into the details. You ought to confine yourself to the principles.

**Mr. Ananga Mohan Dam:** Yes, after finishing my preliminaries. I must refer to the general objections. The initial objection to such a Bill is that a legislature composed of Hindus and non-Hindus is not competent to legislate on religious matters which are inherent in our social customs and rites. A Hindu has to pass through ten *samskaras* or sacraments and the marriage is the most important of them and all Hindus, high and low, are entitled to it. Our marriage laws are based on religion which stands on revelation. Here I shall quote a competent authority to support what I say about the incompetency of the present Legislature. The authority is Dr. Hermann Finer, the well known authority on Politics:

"It is impossible for the ordinary institutions of Governments to penetrate into the depths and master the complexities of any modern branch of society and law without the special aid of those to whom the matter is one of lifelong and intimate acquaintance, and to whom all things are revealed, owing to the vital quality of their interest in the result."

Then, Sir, there is another authority—the Theory of Modern Government. Vol. II, p. 753:

"The above view is also endorsed by Sir Arnold Wilson, who, in an article entitled 'The Church and State', which appeared in the *English Review* (January, 1933) quotes the view of Lord Hugh Cecil and says:

"He would exclude the laity from discussion of the mystery of sacraments, which belongs to Bishops and subordinately to the clergy. He would permit no intrusion by the laity on the stewardship of the mysteries of the Gospel.

It was from the same principle as enunciated above that even in England, materialistic as she is, a separate body of experts was formed under the 'Church of Assembly Act' even as late as in 1919 to deal with matters of religion."

Sir, the Bill has not been circulated properly to various organisations and no mention of this is found in the Government *communique*. It was not given to the various journals of the country. The Bill was published only in the Government Gazette to which outside public has little access. The Judicial Secretary to the Government of Bengal says that the Bills were published in English in the Calcutta Gazette of the 18th June, 1942, but they were not translated into any other language.

So far as Assam is concerned, competent professors of the only Sanskrit College and renowned Pandits of the district of Sylhet were not consulted. As the House knows, there is a Government Sanskrit College in Sylhet which is the only College of Assam. Besides, the time selected for the consideration of this Bill is highly inopportune. We are passing through the critical days of war and every man has been at pains to find his necessities of life and he cannot be expected to give time to the thought of higher and complex problems of social progress and organisation. It is but meet and proper that such measures of law should be introduced at a time when people are in peace and when they can thoroughly think about the future organisation of their country in comparison with the laws and institutions which prevail in other countries. It is not at all possible for the Hindus of the present day India to think of these serious things when they are living from hand to mouth and are confronted with new problems every day of their life.

Coming to the merits of the Bill, I say that the Bill introduces a change in the sacramental marriage. It proposes to abolish polygamy and the reformists in their zeal say that this is a monumental reform. May I ask where is polygamy in Hindu society in such an enormous extent that it requires a drastic legislation? Even the reformists say that Hindu marriages except in rare

cases are monogamous. Neither the Sastras nor the Society approve, tolerate or recommend bigamy in normal circumstances. There may be some cases where the taking of second wife becomes a necessity. The Committee have mentioned some cases but they have dismissed them summarily. There is a provision that a son-less husband should re-marry. In the case of adultery, the woman continues to be the wife of the husband but she becomes unfit for the religious acts which are enjoined to be performed in company with the wife who must be a chaste woman. In such cases, the husband is to take another wife.

Sir, the cardinal principle of Hindu marriage is:

*"Putrarthē kriyate bhāryya Putra-pinda prayojana."*

Man should marry for having a son and a son is needed for his spiritual benefit. When the wife is vicious or a permanent invalid or a barren, the husband has to re-marry in order to have a son, which is the primary object of marriage.

**Dr. P. N. Banerjee:** What about the husband? If the husband becomes vicious, then what happens?

**Mr. Ananga Mohan Dam:** Then you will have the new law of divorce. Thus, we see that the Committee is out to kill an imaginary foe which is almost non-existent. Monogamy is good and is highly applauded in our Sanskrit literature. Sri Ramchandra is called:

*Ekanari Brahmachari and Maryade Purushottama.*

Most dignified personality and devoted to one wife, Sita devi. The Hindu Sastras give encomium to monogamy but they do not allow it in every case.

**Mr. Kailash Bihari Lall** (Bhagalpur, Purnea and the Sonthal Parganas: Non-Muhammadian): Why Ramchandrajī had to go to the jungle?

**Mr. Ananga Mohan Dam:** Ramchandrajī had to go to the jungle for keeping promise of Dashrath to Kaikeyi. When Ramchandrajī had to perform an *Yagnya* he had to make an image of Sita devi in gold because Sita devi was not at his side at that time. Every Hindu husband is enjoined to have his wife by his side when he performs religious rites. Monogamy is good but often it leads to undesirable social results. Our Sastras say that in order to protect the departed soul, *Sradh* must be duly performed. This is only possible through sons and grandsons. Therefore, the son-less should take a second wife unless he is senile and the senile and the impotent may adopt sons called *dattak putras*, though they cannot perform *Sradh* and other duties as well as a son of one's own blood. However ideal and desirable the monogamy may be, it is impossible to restrain all nature even where there are provisions for divorce. Polygamy is illegal and monogamy is the law in the Roman system only. Christ, as the subject of the Roman Empire, only registered the existing law for the Christians. In Rome the law of monogamy led to concubinage on a wide scale which had to be recognised by Roman laws. Many historians are of opinion that monogamy contributed to the fall of the Rome. It is no doubt unfortunate for the spouse to fall off from each other's affection and attention. Does the new woman consider a co-wife less bearable than an illegal connection? Would they put up with a straying husband simply for the purpose of inheriting his estate as facilitated by recent legislation? Polygamies are rare among Hindus because the ancient laws never sanctified it without suitable cause.

**Mr. President** (The Honourable Sir Abdur Rahim): It is now five o'clock. The Honourable Member can continue his speech on the next day when this Bill is taken up.

The Assembly then adjourned till Eleven of the Clock on Monday, the 6th March, 1944.