

5th April 1945

THE
LEGISLATIVE ASSEMBLY DEBATES
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(2nd April to 12th April, 1945)

TWENTY-SECOND SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1945



LEGISLATIVE ASSEMBLY

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The Honourable Sir ABDUR RAHIM, K.C.S.I.

Deputy President :

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Sardar SANT SINGH, M.L.A.

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LEGISLATIVE ASSEMBLY

Thursday, 5th April 1945

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.

MEMBER SWORN:

Mr. Lalgudy Swaminath Vaidyanathan, M.L.A. (Government of India: Nominated Official).

STARRED QUESTIONS AND ANSWERS

(a) ORAL ANSWERS

LAST HEAVY FLOODS IN VARUNA RIVER AT BENARES

1628. *Mr. Sri Prakasa: Will the War Secretary be pleased to state:

(a) if he is aware of the heavy floods in September, 1943, in the river Varuna (Barna) at Benares;

(b) if the said river is a mere rainy season stream;

(c) if he is aware that the said floods were due to the levelling up of nearly two hundred square miles of land in the neighbourhood for military encampments because of which no water, during the exceptionally heavy rainfall at the time, could be absorbed in the innumerable dug-outs that existed before, and all the water went into the stream itself;

(d) if a number of villages were completely destroyed;

(e) if no information could be given of the floods in time; and

(f) if compensation was paid only to the officers who had suffered and not to any private persons?

Mr. C. M. Trivedi: (a) and (b). Yes, Sir.

(c) No, Sir. I am informed that the floods were due to the fact that there was an abnormal rainfall at Benares amounting to about 15 inches in two days. I am further informed that the area of land levelled in the locality for military purposes was about 5 or 6 square miles only.

(d), (e) and (f). I have no information. The matters referred to are the concern of the Provincial Government.

Mr. Sri Prakasa: Has the Honourable Member assured himself that even the levelling of five or six square miles did not affect the floods?

Mr. C. M. Trivedi: I have, Sir. I have been assured that the levelling of about 5 or 6 square miles did not affect the floods.

Mr. Sri Prakasa: With reference to part (f), may I know if it is a fact that only officers of Government were given compensation for losses suffered and not the residents of the villages?

Mr. C. M. Trivedi: I have no information on the point.

Mr. Sri Prakasa: May I take it that that is not the concern of his Department?

Mr. C. M. Trivedi: I have no information. The question of compensation is a matter for the Provincial Government.

Mr. Govind V. Deshmukh: Will information be sought for?

Mr. C. M. Trivedi: If the Honourable Member will put down a question, I shall certainly obtain the information.

LARGE QUANTITY OF PETROL USED BY MILITARY PEOPLE FOR NON-MILITARY PURPOSES

1629. *Mr. Sri Prakasa: Will the War Secretary be pleased to state:

(a) if it is a fact that military people use a large amount of petrol for their non-military purposes;

(b) if Government exercise any control in this; and

(c) if Government propose to see that the military authorities use only a reasonable amount of petrol for such purposes?

Mr. C. M. Trivedi: (a), (b) and (c). In certain circumstances military personnel are allowed to use military vehicles for purposes of recreation, etc. Strict control is of course exercised over the movements of vehicles for these purposes.

I am arranging to place in the Library of the House a copy of the instructions on the subject.

Mr. Sri Prakasa: Does the Honourable Member satisfy himself with only giving instructions or does he take any steps to see that these instructions are actually implemented in practice?

Mr. C. M. Trivedi: Yes, Sir, we do not stop with merely giving instructions but we ensure by submission of reports that instructions given are actually carried out. The Honourable Member will see that the particular instructions of which I have placed a copy in the Library require that a report should be submitted every quarter.

Mr. T. S. Avinashilingam Chettiar: May I know whether the fact that the instructions are followed is shown by reduction in consumption of petrol?

Mr. C. M. Trivedi: I suppose the effect will be shown in the figures.

Mr. T. S. Avinashilingam Chettiar: Is it shown there?

Mr. C. M. Trivedi: These concessions were only introduced recently and there has not been time enough to see what the consumption of petrol will be. It is with a view to satisfy ourselves about the consumption of petrol that the instructions were issued. We have called for a report in the beginning of July and thereafter every three months to see whether the instructions are being actually carried out or not.

Mr. Sri Prakasa: Are petrol consumption returns examined by competent authority on behalf of the Department?

Mr. C. M. Trivedi: Yes, Sir, for the information of the Honourable Member I will read out the relevant paragraph of instructions:

"A careful check of the amount of petrol used under this Instruction will be maintained and a report forwarded by Headquarters, Armies/Commands to General Headquarters, by the 15th July showing the amounts for the period 1st April, to 30th June and thereafter every three months."

HEALTH OF MEMBERS OF THE CONGRESS WORKING COMMITTEE

1630. **Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Home Member please state:

(a) the latest information with regard to the condition of the health of the members of the Congress Working Committee;

(b) whether Pandit Govind Vallab Pant has been operated upon and if so, whether by doctors of his own choice; and

(c) how many of them have gone down in weight?

Sir Richard Tottenham: (a) Mr. Vallabhai Patel and Mr. Narendra Deo had mild attacks of influenza during the week ending 24th March. Otherwise there has been no important change in the state of health of the Members of the Congress Working Committee since the reply given to Mr. Satya Narain Sinha's starred question No. 106 on 10th February, and I have nothing further to add to that reply.

(b) No, but he has been released.

(c) The latest available information about their weights was given in the reply to Mr. Satya Narain Sinha's question on 10th February.

Mr. T. S. Avinashilingam Chettiar: May I know where these Working Committee Members are kept at present?

Sir Richard Tottenham: I cannot give detailed information, but I think most of them have by now returned to their own Provinces.

Mr. T. S. Avinashilingam Chettiar: Who remains in Ahmednagar Fort now?

Sir Richard Tottenham: I believe Maulana Abul Kalam Azad is still at Ahmednagar. I am not quite sure.

Mr. Badri Dutt Pande: Why was Pandit Govind Ballabh Pant taken to the Central prison, Bareilly, and then released at the gate? Why was he not released at the Railway station?

Sir Richard Tottenham: I could not give any information about that. The matter was left entirely to the Provincial Government.

Mr. T. S. Avinashilingam Chettiar: How many Members of the Working Committee have been sent to provinces other than their own?

Sir Richard Tottenham: I think the only Member of the Working Committee who has been sent to a province other than his own is Mr. Asaf Ali.

Maulana Zafar Ali Khan: Why was Mr. Asaf Ali transferred to Gurdaspur jail instead of Delhi jail?

Sir Richard Tottenham: Because there is no jail in Delhi where persons detained without trial can be kept.

Mr. Sri Prakasa: May I know whether it is now no more the concern of the Central Government, but only the concern of the Provincial Government?

Sir Richard Tottenham: They are the concern of the Central Government.

Mr. T. S. Avinashilingam Chettiar: Just one more supplementary question, Sir.

Mr. President (The Honourable Sir Abdur Rahim): These questions do not arise. Next question.

NATIONAL LABORATORIES

1631. *Prof. N. G. Ranga: Will the Honourable Member for Planning and Development be pleased to state:

(a) how many National Laboratories are going to be or are being started in the country;

(b) whether Government will keep in mind the need for starting them in such regions as really need their presence and not in a few centre like Calcutta and Bombay which have already so many other laboratories and technological institutes; and

(c) whether in recruiting researchers, and directors for these laboratories, the needs of the hitherto undeveloped provinces will be kept in mind, in order to send them out later on to their respective provinces to start and direct similar laboratories?

The Honourable Sir Ardeshir Dalal: (a) Five; they are:

(i) A National Physical Laboratory at Delhi.

(ii) A National Chemical Laboratory at Poona.

(iii) A National Metallurgical Laboratory at Jamshedpur.

(iv) A Central Fuel Research Station at Dhanbad, and

(v) A Central Glass and Ceramics Research Institute at Calcutta.

(b) The factors mentioned by the Honourable Member, among others, were borne in mind before deciding on the location of the various Institutes.

(c) Yes.

PAUCITY OF INDUSTRIAL CENTRES OR TECHNOLOGICAL INSTITUTES IN PROVINCES

1632. *Prof. N. G. Ranga: Will the Honourable Member for Planning and Development be pleased to state:

(a) if Government are aware of the fact that a number of provinces such as C. P., Punjab, Andhra, Karnatak, Sind, Orissa have no great industrial centres, or technological institutes or colleges;

(b) if Government are aware that many of their educated youths have not had a chance of obtaining the requisite industrial and technological training and other equipment;

(c) whether Government are aware that if no special consideration is given to the special weakness of such provinces, the proposed scholarships for technical training are likely to go to a few centres like Calcutta, Bombay, Ahmadabad, Jamshedpur, Dalmianagar, Cawnpore; and

(d) whether Government propose to consider the advisability of distributing these scholarships in such a way that undeveloped provinces may also have some share in them?

The Honourable Sir Ardeshir Dalal: (a) and (b). Yes.

(c) and (d). The selection of sponsored students will be made with reference to the requirements of post-war development plans which are being prepared by the Central and Provincial Governments. When making the selection,

the Governments of hitherto undeveloped areas will no doubt bear in mind their own needs.

Mr. T. S. Avinashilingam Chettiar: What steps are Government taking to see that industries are fairly well spread over the country?

The Honourable Sir Ardeshir Dalal: Regionalisation is one of the things which Government has to look into. All the panels as well as the provincial committees have been instructed to look into that.

Seth Yusuf Abdooli Haroon: May I know whether the Honourable Member has drawn the attention of the provinces to this fact?

The Honourable Sir Ardeshir Dalal: Provincial committees will undoubtedly look after the interests of their own Provinces.

Prof. N. G. Ranga: Has any special allotment been made by the Central Government to these undeveloped Provinces? Otherwise the Provincial Governments may make a few recommendations and the Government of India may say, these are their recommendations and we have made our final decision?

The Honourable Sir Ardeshir Dalal: You mean financial allotment?

Prof. N. G. Ranga: No, Sir. The proposal is to send 500 scholars abroad. When you are making the selection, are you going to give any special allotment of these scholarships to undeveloped provinces so that more people from these provinces might get themselves trained and come back to their respective provinces and develop the industries in those provinces?

The Honourable Sir Ardeshir Dalal: As I have explained before, the needs of the undeveloped Provinces and of the less advanced communities have to be specially borne in mind by the committees which are selecting the candidates.

ADVISABILITY OF RESTORING SALT CONCESSIONS UNDER GANDHI-IRWIN PACT

1633. *Prof. N. G. Ranga: Will the Honourable the Finance Member be pleased to state:

(a) if Government are aware that there is a shortage of supply of salt and inadequacy of Indian production, if so, why Government have reduced or annulled or suspended the concessions made under the Gandhi-Irwin Pact of 1931 allowing the workers and residents of coastal and other salt producing areas to produce enough salt for their domestic and agricultural needs and for trading in salt in eking out their livelihood; and

(b) whether Government propose to consider the advisability of restoring and extending those concessions?

The Honourable Sir Jeremy Raisman: (a) Government are aware that there have been occasional local shortages of a temporary nature, though Indian production as a whole is in no sense inadequate to the demand that exists for such salt. So far as Government are aware there has been no reduction, annulment, or suspension of the concessions granted in 1931.

(b) Does not arise.

Prof. N. G. Ranga: Is it a fact that in several places, in the Madras Presidency specially, the period during which salt is allowed to be manufactured has been very seriously reduced?

The Honourable Sir Jeremy Raisman: It may be that there are reasons for that; but I am not aware that the period has been reduced. I do not think that follows from the Government of India's orders.

Mr. T. S. Avinashilingam Chettiar: Is it not definitely a fact that so far as Vedaramman in South India is concerned, these privileges are withdrawn and will Government enquire and see that the people are really allowed to exercise these privileges, as stated by the Honourable Member?

The Honourable Sir Jeremy Raisman: It has always been the case in connection with the pact that certain malpractices would lead to the withdrawal of the concession. I do not know if the Honourable Member is referring to that; but if it is not as a result of the abuse of the concession I certainly will have the matter inquired into.

Prof. N. G. Ranga: Is the Honourable Member aware of the fact that in pursuance of the Gandhi-Irwin Pact peasants are allowed to manufacture salt for their family consumption, also for the needs of their cattle and for local

sale as well, provided they take it as head-loads? Is he aware if any restrictions have been placed in regard to these three concessions?

The Honourable Sir Jeremy Raisman: I cannot say I am aware of that, but if the Honourable Member will furnish me with any information I will have that looked into.

Mr. T. S. Avinashlingam Chettiar:—Will Government consider the advisability of punishing people who resort to malpractices and not withdraw the concessions?

The Honourable Sir Jeremy Raisman: I think it was laid down in the Pact that abuses will be followed by withdrawal of the concessions.

Seth Yusuf Abdoola Haroon: Was any similar representation made by the Karachi Salt Manufacturers' Association as regards concessions to be granted in Karachi and Okha ports?

The Honourable Sir Jeremy Raisman: I shall require notice of that question.

INSTALLATION OF BROADCASTING STATION FOR ANDHRA COUNTRY

1634. ***Prof. N. G. Ranga:** Will the Honourable Member for Information and Broadcasting be pleased to state:

(a) whether Government have received representations from Andhras and their Associations for construction of a Broadcasting Station at Bezwada or Rajahmundry or some suitable place in the Andhra country;

(b) whether Government have given any assurance or reply; and if so, to what effect; and

(c) when Government propose to provide a Broadcasting Station for the Andhras, in the Andhra country, to broadcast in Telegu, the local language?

The Honourable Sir Sultan Ahmed: (a) Yes.

(b) The reply was to the effect that the claims of the Andhra country would be given due consideration in any future scheme for a further development of broadcasting in India.

(c) I cannot give any date.

Seth Yusuf Abdoola Haroon: May I know if consideration will be given only to this province or to other provinces also?

The Honourable Sir Sultan Ahmed: To other provinces also.

Prof. N. G. Ranga: May I know if it is possible to give first priority to this particular area?

The Honourable Sir Sultan Ahmed: I am afraid, not.

FINAL AUTHORITY ACCORDING CONSENT TO ISSUE OF SHARES IN THE CASE OF BANKS

1635. ***Mr. Akhil Chandra Datta:** Will the Honourable the Finance Member be pleased to state:

(a) whether in the case of Banks, Government or the Reserve Bank functions, as the practical final authority in the matter of according 'consent' to issue of shares;

(b) whether the Examiner of Capital Issue exercises the responsibility of scrutinising the objections of the Reserve Bank and giving the applying Banks the necessary chance for answering or meeting the objections of the Reserve Bank before finally disposing of the application or whether the Reserve Bank's opinion is the last word in the matter;

(c) whether Government have accepted the policy and principle adopted by the Reserve Bank in regard to 'consent' matter;

(d) whether Government propose to consider the advisability of having its own machinery for dealing with the applications of Banks for 'consent' if they contemplate to continue the restrictions; and

(e) whether Government are aware of the direct inconsistency as disclosed by the proposed share capital standard under the proposed Banking Law and the existing restrictions on issue of capital; and how they propose to reconcile the two conflicting measures?

The Honourable Sir Jeremy Raisman: (a) the Government of India is the final authority.

(b) It is not the usual practice of the Examiner of Capital Issues to put to the applicants for consent to a capital issue by a Bank any objections raised by the Reserve Bank of India before seeking the orders of the Government of India; but reasons for refusal are supplied on request and any unsuccessful applicant is always at liberty to apply for reconsideration; such applications are carefully examined.

(c) The Government of India nearly always, but not invariably, find themselves in agreement with the Reserve Bank in matters of policy and principle.

(d) The Government of India are not prepared to alter their present procedure, whereby the Reserve Bank are asked to function as their expert advisers in cases relating to banking.

(e) If the Honourable Member's meaning is that in some cases the refusal of consent to a proposed issue means that a Bank with branches in more than one Province will find it difficult to comply with the provisions of clause 11 of the new Banking Bill, the answer is that the Government are aware of this; but the Bill is not yet law and even if it becomes law in its present form it leaves sufficient time in which to consider the question of attaining the requisite capital and reserves, failing success in which it would be open to the Bank to close branches in other Provinces.

Mr. Manu Subedar: Under the existing law have there been any cases of banks applying for an increase of capital in order to conform with the new interpretation to come on to the Schedule, and if any such banks had been refused an increase of capital which was made necessary by Government's own action in interpreting the requirements of the Schedule?

The Honourable Sir Jeremy Raisman: I am afraid I could not answer that question off-hand. But I must point out that the interpretation of the Reserve Bank Act relating to the capital and reserves of banks is a perfectly natural one, and it was entirely wrong, in my opinion, for banks to proceed on the assumption that they would be complying with the requirements of the Act if they merely maintained a nominal book value corresponding to the value given in the Act.

Mr. Manu Subedar: I am not disputing the authority of the Reserve Bank or the interpretation of the Schedule. My question is whether these people who are forced on account of the new interpretation to seek an increase of capital are shut out by any action taken by the Reserve Bank or by the Controller of Capital Issues?

The Honourable Sir Jeremy Raisman: The answer to that is probably in the negative, but I shall require notice in order to give a precise reply.

Mr. Akhil Chandra Datta: With reference to part (e), what is the policy or principle for either granting or refusing consent?

The Honourable Sir Jeremy Raisman: I think we have issued press communiques indicating the criteria which are applied to new issues generally. I imagine in the case of banks one of the criteria is the necessity and value to the country of further institutions of this kind and the location of them, and the possible need which they will fill must be taken into account.

Mr. Akhil Chandra Datta: With reference to part (e), is the Defence of India Rule 94-A still in force under which banks are required to obtain consent of the Government of India for the issue of fresh capital?

The Honourable Sir Jeremy Raisman: I do not know why the Honourable Member questions whether it is still in force; it is one of the Defence of India Rules.

Mr. Akhil Chandra Datta: I ask it for this reason. In the proposed Banking Bill a certain standard is laid down about capital, and unless that standard is complied with it is proposed that banks will not be allowed to carry on business. In view of that provision in the Banking Bill, are Government considering the desirability of now abrogating rule 94-A?

The Honourable Sir Jeremy Raisman: I have answered that in reply to clause (e) of the question. The position will be that either the bank will have to establish a case for additional capital and obtain approval, or, if it should

fail to do so, it may not be able to maintain branches on the scale which it does at present.

Mr. Akhli Chandra Datta: Have Government considered this aspect of the question that refusal of consent or delay in giving consent will prejudicially affect the banks and will make them unable to comply with the standard laid down in the Banking Bill?

The Honourable Sir Jeremy Raisman: I have no doubt that when the provision in the Banking Bill becomes law, if it becomes law in the present form, Government will certainly take into account the new situation which has arisen.

JOINT-STOCK BANKS APPLYING FOR FINANCIAL ASSISTANCE OF RESERVE BANK OF INDIA

1636. ***Sir Abdul Halim Ghuznavi:** Will the Honourable the Finance Member be pleased to state:

(a) whether, during the whole career of the Reserve Bank of India any Joint-Stock Bank ever applied for any financial assistance from the Reserve Bank; if so, what the names of the applying Banks are;

(b) the fate of each of those individual applications for assistance;

(c) the reasons for the refusal to assist where no assistance was rendered; and

(d) whether he is aware of any reactions on the applying Banks after refusal of assistance from the Reserve Bank; if so, what the reactions were?

The Honourable Sir Jeremy Raisman: (a) Yes; since the inception of the Reserve Bank 40 joint stock banks have applied for financial accommodation. It is not in the public interest to disclose their names.

(b) All except five banks were granted accommodation.

(c) The reasons were: in two cases, the lack of eligible assets, in two more cases the unsatisfactory financial position of the banks, and in one case, the refusal of the bank to agree to investigation by the Reserve Bank.

(d) If the Honourable Member means reactions arising directly from the refusal of assistance, the answer is in the negative. There are usually other factors which enter into the matter.

Mr. T. S. Avinashlingam Chettiar: What has happened to these banks to whom the assistance was not given? Have they broken down?

The Honourable Sir Jeremy Raisman: I dare say some of them have, but, as I have just said in answer to part (d), it does not mean that the cause of their failure necessarily is merely the refusal by the Reserve Bank.

Mr. Manu Subedar: The eligible assets are mentioned. May I know whether these banks had nothing of value on which advances could be made to them?

The Honourable Sir Jeremy Raisman: By 'eligible' is meant assets which are acceptable as security for assistance by the Reserve Bank.

Mr. Manu Subedar: Is it intended to confine assistance merely when they produce Government securities? May I know whether Government will consider the desirability of recommending to the Reserve Bank the evaluation of all assets? Anything which is an asset has got a value, and is there any special reason why banks applying for assistance to the Reserve Bank should not get immediate advance on anything which has definitely got a value?

The Honourable Sir Jeremy Raisman: I am not aware that the Reserve Bank confines its consideration only to Government securities. I dare say that it takes other assets into account, but it is obviously a very difficult and delicate matter to decide in a general way what types of assets should be regarded as qualifying for this purpose.

Mr. T. T. Krishnamachari: May I ask the Honourable Member if he has any idea of what assets are eligible? I certainly agree with him that it is not Government securities alone but some other assets as well are eligible, and since those assets are defined in section 17, will the Honourable Member pursue the

matter a little further and find out from the Reserve Bank whether the assets which are described as eligible cover all the assets that banks can possibly furnish in circumstances like these?

The Honourable Sir Jeremy Raisman: Yes, I will have an enquiry made into that matter.

Mr. Akhil Chandra Datta: Has financial accommodation been given in any case except where Government securities have been produced?

The Honourable Sir Jeremy Raisman: I shall require notice of that question.

DE-SCHEDULED BANKS OF THE RESERVE BANK OF INDIA

1637. *Sir Abdul Halim Ghuznavi: Will the Honourable the Finance Member be pleased to state:

(a) whether any bank, which was included in the Scheduled List has subsequently been excluded; if so, the grounds on which such exclusion was decided by the Reserve Bank or Government of India;

(b) whether the de-scheduled Bank or Banks were given any opportunity to state their case fully before they were excluded from the list; and

(c) whether the facts, on the basis of which the decision for exclusion was taken, were admitted by the Banks and if any of the facts were denied by them; whether Government were satisfied that they were sufficiently proved?

The Honourable Sir Jeremy Raisman: (a) Yes. One bank was excluded from the schedule in terms of section 42(6) of the Reserve Bank Act.

(b) Yes.

(c) After taking into consideration the explanation given by the bank Government were satisfied that the facts on the basis of which the bank was excluded were sufficiently proved.

Mr. T. S. Avinashilingam Chettiar: What is the answer to the second part of clause (a)?

The Honourable Sir Jeremy Raisman: The answer is given by the words 'in terms of section 42(6) of the Reserve Bank Act'.

DECIDING AUTHORITY FOR INCLUSION OR EXCLUSION OF SCHEDULED BANKS

1638. *Sir Abdul Halim Ghuznavi: Will the Honourable the Finance Member be pleased to state:

(a) the final deciding authority in matters of inclusion and exclusion of Scheduled Banks under Sec. 42 of Reserve Bank of India Act;

(b) the procedure followed in dealing with cases of inclusion and exclusion of Banks;

(c) whether Government are aware of any case when a Joint-Stock Bank was dissatisfied and aggrieved in regard to the manner in which the function regarding inclusion and exclusion under Section 42 has been exercised by the Reserve Bank; if so, have Government taken action to remedy such grievances; what are the steps Government propose to take in such matters;

(d) whether Government exercise any right of revision or review and give relief to the aggrieved Bank;

(e) whether there is any single instance when the Reserve Bank has offered its help or counsel to the management of any Bank in India to enable them to improve its position; and

(f) whether Government propose to make their views known to the Reserve Bank from time to time and issue directives with regard to the policy that the Reserve Bank should adopt towards the Commercial Banks or whether Government have divested themselves of all responsibility in matters of these Banks and have left full discretion and scope to the Reserve Bank?

The Honourable Sir Jeremy Raisman: (a) The Government of India.

(b) The attention of the Honourable Member is invited to section 42(6) of the Reserve Bank Act and the annual reports of the Central Board of the Reserve Bank under section 14 of its Act.

(c) Government and not the Reserve Bank exercise powers under section 42(6) of the Act. Government are not aware of any cases of dissatisfaction except one.

(d) Full opportunity is given where necessary to the banks concerned to explain their case before final action is taken.

(e) Yes. In its circulars the Reserve Bank has repeatedly offered to help banks with technical advice and some banks have taken advantage of the offer.

(f) Government already maintain close contact with the Bank. The policy of the Reserve Bank towards commercial banks is governed by the Reserve Bank Act and the regulations made thereunder. In matters relating to section 42(6) of the Reserve Bank Act, the final decisions are taken by Government.

Mr. Akhil Chandra Datta: As regards part (e), has the Reserve Bank or the Government of India issued any manual of instructions to the member banks as to how a bank should be conducted on sound lines?

The Honourable Sir Jeremy Raisman: I do not know whether there is a manual. I understand that there are circulars which are issued from time to time.

Mr. T. S. Avinashdingam Chettiar: To whom are they issued?

The Honourable Sir Jeremy Raisman: I think they are issued to the scheduled banks.

Mr. Akhil Chandra Datta: Are you sure that such circulars are issued regarding sound management and sound investments?

The Honourable Sir Jeremy Raisman: I said that in its circulars the Reserve Bank has repeatedly offered to help banks with technical advice and some banks which required technical advice have taken advantage of the offer.

Prof. N. G. Ranga: Is it done by the Reserve Bank on its own initiative, or on application made by any particular bank?

The Honourable Sir Jeremy Raisman: I think it must be on application made by the bank because the Reserve Bank would not necessarily be aware that a bank required advice unless that bank addressed it.

Prof. N. G. Ranga: Is there any machinery or officers to look into the soundness or otherwise of the condition of any one of these scheduled banks?

The Honourable Sir Jeremy Raisman: Yes, the Bank has a certain amount of staff for the purpose, but one of the main objects of the Banking Bill is to give the Reserve Bank certain powers of inspection and when that is enacted the Bank will have to equip itself with administrative personnel to carry out those duties.

Pandit Lakshmi Kanta Maitra: May I know from the Honourable Member if there is any relief provided in the shape of review in the case of aggrieved banks?

The Honourable Sir Jeremy Raisman: The order removing a bank from the schedule, if that is what the Honourable Member is referring to, is passed by the Government of India, and I do not see what further review can take place. Such an order is only passed after the most careful consideration of the circumstances.

HIGHER RANK I.M.S. AND R.A.M.C. OFFICERS IN GENERAL HEADQUARTERS, DELHI

1639. ***Mr. Govind V. Deshmukh:** Will the War Secretary be pleased to state:

(a) the number of I.M.S. and R.A.M.C. officers holding ranks of Colonel and above in the General Headquarters offices in Delhi;

(b) how many of them are Indians and how many Europeans;

(c) how many of the officers referred to in (a) have only substantive rank of Major and below; and

(d) how many, if any, senior Indian officers of the I.M.S. holding permanent rank of Lieut-Colonel have been selected to hold these staff appointments as consultants, specialists, administrative heads, etc. in General Headquarters; if none, why?

Mr. O. M. Trivedi: (a) Six in the I. M. S. and 13 in the R. A. M. C. .

(b) All are Europeans.

(c) Only two of the 19 officers referred to in (a) above hold substantive rank of Major and below.

(d) One.

Mr. T. S. Avinashilingam Chettiar: What is the total number?

(No reply was given.)

Seth Yusuf Abdoola Haroon: May I know from the Honourable Member whether Indians are not available for the posts?

Mr. C. M. Trivedi: The policy is that the most suitable officer available—Indian or British—is invariably selected for senior appointments in the Medical Directorate.

Mr. T. S. Avinashilingam Chettiar: May I know why till now no Indian officer holding a rank of Colonel and above has been appointed? There is not even one officer in that category.

Mr. C. M. Trivedi: I have said that the most suitable officer available—Indian or British—is invariably selected for senior appointments in the Medical Directorate.

Mr. Govind V. Deshmukh: May I know what the Honourable Member means by 'suitable officer'? Are Indians not qualified or have they not got ranks?

Mr. C. M. Trivedi: I mean suitable for holding senior appointments in the Medical Directorate.

Mr. Govind V. Deshmukh: May I know whether they have not got the necessary medical qualifications and the ranks?

Mr. C. M. Trivedi: I can only repeat what I have said that the most suitable officer available—Indian or British—is invariably selected for senior appointments in the Medical Directorate.

Mr. Govind V. Deshmukh: That does not explain my point.

Seth Yusuf Abdoola Haroon: May I know from the Honourable Member who selects these officers?

Mr. C. M. Trivedi: The selections are made by the D. M. S.

Mr. Manu Subedar: In view of the fact that there are many Indians holding both the medical qualifications and the ranks, and the feeling of the public on this matter, will Government take the earliest opportunity of getting Indians into this cadre here?

Mr. C. M. Trivedi: I will, Sir.

LOWER RANK I.M.S. AND R.A.M.C. EUROPEAN OFFICERS HOLDING HIGHER RANKS UNDER INDIA COMMAND AND SOUTH EAST ASIA COMMAND

1640. ***Mr. Govind V. Deshmukh:** Will the War Secretary be pleased to state:

(a) the number of European officers of the I.M.S. and R.A.M.C. holding permanent rank of Major or below who are now holding appointments carrying rank of Colonel and above under the India Command and South East Asia Command;

(b) whether in making such appointments, Indians with longer service and higher qualifications have been superseded; if so, why;

(c) how many Indian Lieut-Colonels of the I.M.S. have been retired since the beginning of the War and for what reasons, if any have been re-employed, if so, how many in (i) the same rank, and (ii) higher ranks;

(d) how many retired European officers of the I.M.S. and R.A.M.C. have been re-employed in (i) the same rank, and (ii) higher ranks than when they retired; and

(e) how many officers of the I.M.S. and R.A.M.C. are holding temporary or acting rank of Colonel and above in the India and South East Asia Command; how many of them are Europeans and how many Indians?

Mr. C. M. Trivedi: (a) 70, including officers of the Indian Army Medical Corps.

(b) Appointments of the rank of Colonel and above are filled by selection, and there have been cases in which officers, both British and Indian, have not

been selected for such appointments, although they had longer service and higher qualification.

(c) 48; of these 34 retired on reaching the age of superannuation and the remaining 9 on medical grounds.

18 of these 48 officers have since been re-employed in the same rank as that in which they retired. None was re-employed in a higher rank.

(d) 48 European officers of the Indian Medical Service/Indian Army Medical Corps and the Royal Army Medical Corps have been re-employed in the same or in a lower rank. None was re-employed in a higher rank.

(e) 94 officers of the Indian Medical Service/Indian Army Medical Corps and 76 of the Royal Army Medical Corps are holding temporary or acting rank of Colonel and above in the India and South East Asia Commands. Of these 38 Indian Medical Service/Indian Army Medical Corps officers are Indians and the rest Europeans.

Mr. Govind V. Deshmukh: With reference to (b), may I know whether officers who were junior to Indians in that rank became senior to the Indians and if so, what is the explanation?

Mr. O. M. Trivedi: As I have said, appointments in the rank of Colonel and above are filled by selection and if no senior Indian was selected it was because the junior officer was considered more suitable.

Mr. Govind V. Deshmukh: Who makes the selection? Is it by a board or selection?

Mr. O. M. Trivedi: So far as I am aware, the selection is made by the Director, Medical Services. I will however find out and let the Honourable Member know.

Prof. N. G. Ranga: Why is it that when Indians who are of permanent Lieut.-Colonel status were available, Englishmen of lower rank were preferred?

Mr. O. M. Trivedi: I must explain that it is not a question of nationality. It is a question of selection.

Prof. N. G. Ranga: If it is a question of war emergency, why is it that such senior officers are not sent to the war front. They are not even kept at General Headquarters but sent to the mofussil.

Mr. O. M. Trivedi: I do not follow the Honourable Member.

Mr. Govind V. Deshmukh: Am I to understand that my suggestion for having a board will be accepted?

Mr. O. M. Trivedi: If a selection is made by one person, I will have the suggestion for a board considered.

Dr. P. N. Banerjee: Are these not cases of discrimination against Indians?

Mr. O. M. Trivedi: No, Sir.

DESIRABILITY OF TRANSFERRING MAULANA NOOR-UD-DIN BEHARI TO A BIHAR JAIL.

1641. ***Mr. Ram Narayan Singh:** Will the Honourable the Home Member be pleased to state:

(a) if Government are contemplating to transfer Maulana Noor-ud-Din Behari, a member of the All-India Congress Committee, an original resident of the Bihar Province and a security prisoner of the Delhi Government, to some jail in his own Province;

(b) whether Government are aware that the Maulana has not been keeping good health and his family has not been able to pay a single visit owing to the great distance from Bihar to the Punjab jails in which the Maulana has been kept by the Delhi Government; and

(c) whether Government are aware that the Maulana's business in the Delhi Province has virtually been closed and that there is little likelihood of the Maulana's staying in the Province of Delhi after his release if and when ordered?

Sir Richard Tottenham: (a) I understand that the Chief Commissioner Delhi has no such intention.

(b) The Chief Commissioner has no reason to believe that the Maulana is not keeping good health. I understand that he and his family lived in Delhi

for many years before his detention but that his wife left Delhi of her own accord some time ago and that his son has gone to Hyderabad (Deccan). I have no information as to when the last family interview took place.

(c) I understand that the small shop which he kept in Delhi has since been closed, but I have no means of knowing what he would do if he were released?

Prof. N. G. Ranga: Is any allowance being made to his family?

Sir Richard Tottenham: I should require notice.

SOLUTION OF POLITICAL DEAD-LOCK

1642. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Home Member please state:

(a) whether correspondence has been going on between the Central and Provincial Governments for ending the political dead-lock in India; and

(b) whether the departure of Lord Wavell to England is in connection with finding a solution for the political dead-lock?

Sir Richard Tottenham: The question should be addressed to the Honourable the Leader of the House.

Mr. T. S. Avinashilingam Chettiar: This question has been printed as the last question of the day. Since it has been postponed for that day, will you kindly see that it is taken first on that day, that is the last day.

Mr. President (The Honourable Sir Abdur Rahim): It is for the Leader of the House to say.

Mr. T. S. Avinashilingam Chettiar: It has been printed for the 9th and it is the last question for that day. Since it has been put today, it has been postponed till the last day. Will he answer it as the first question on that day?

The Honourable Sir Sultan Ahmed: It is entirely for the President to decide as to the order of the questions.

Mr. T. S. Avinashilingam Chettiar: If you agree.

Mr. President (The Honourable Sir Abdur Rahim): This question will be placed according to the order of the notice that is given.

The Honourable Sir Sultan Ahmed: I have no objection but the other Members will have who have questions to put.

Mr. T. S. Avinashilingam Chettiar: It is only one question and it is an important one.

Mr. President (The Honourable Sir Abdur Rahim): I think you had better find out from the other Members. It would not be well for me to introduce such a precedent.

C.I.D. SURVEILLANCE ON MR. SRI PRAKASA

1643. *Mr. Sri Prakasa: With reference to his speech in the course of the general debate on the Finance Bill on March 22, 1945, will the Honourable the Home Member kindly state:

(a) if he has been informed by the local authorities of Benares that there has not been any surveillance on me by the local C.I.D.;

(b) if it is not a fact that members of the C.I.D. have enquired from me, my father and other members of my family direct about my guests and from servants about my movements;

(c) if C.I.D. men at the Benares Cantonment Station have not compelled the Ticket Collectors to go and examine my tickets and give them numbers thereof; and

(d) if the C.I.D. men had not been posted outside my host's house at Cawnpore and if I have not been disturbed at night while travelling by policemen asking questions about myself and the purpose of my travelling?

Sir Richard Tottenham: In his speech in the general debate on the Finance Bill the Home Member said that his enquiries had shown that Mr. Sri Prakasa was mistaken in supposing that four Criminal Investigation Department men had taken a house near his, the better to watch him, and were still there. The suggestions made in parts (a) to (d) of this question may be true, but I see no reason to make enquiries regarding them. Surveillance is a matter for the Provincial Government.

Mr. T. S. Avinashilingam Oheptiar: Is it true that three men are put to watch him and not four?

Seth Yusuf Abdoola Haroon: Is it the Government's policy to keep a watch over all the elected Members of this House?

Mr. Sri Prakasa: In view of the fact that the Honourable the Home Member said that all the complaints I had made in the course of my speech on the Finance Bill were figments of my imagination, may I take it that he was referring only to the fact that I was not correct in the number of men who had been deputed to watch me and was correct in the other particulars I gave, in view of the answer of the Honourable Member this morning?

Sir Richard Tottenham: I am not quite sure what information the Honourable the Home Member had, but I am sure he was not referring only to the number of men!

DETENTION OF MR. BRIJ KRISHNA CHANDIWALA OF DELHI

1644. **Mr. Sri Prakasa:** Will the Honourable the Home Member please state:

(a) if Mr. Brij Krishna Chandiwala of Delhi has been a security prisoner since August 1942, and, if so, the charges against him; and

(b) when his case was last reviewed, and if Government are considering the desirability of releasing him?

Sir Richard Tottenham: (a) Yes. The detention order of the Chief Commissioner, Delhi, recites that it was made with a view to preventing him from acting in a manner prejudicial to the public safety and the maintenance of public order.

(b) The case was reviewed last December and will be reviewed again before long.

Mr. Sri Prakasa: In view of the fact that Mr. Brij Krishan Chandiwala is suffering from what are called local sores, and in view further of the fact that his correspondence is being greatly delayed on important matters, will the Honourable Member consider the desirability of bringing him from his present place of confinement to Delhi?

Sir Richard Tottenham: No, Sir, that would be impossible.

Mr. Sri Prakasa: Would the Honourable Member give me any idea of the state of the health of Brij Krishan Chandiwala?

Sir Richard Tottenham: This man has been detained under orders of the Chief Commissioner, Delhi, and the Government of India has no direct information of the health of these people.

Mr. Sri Prakasa: In view of the fact that the Chief Commissioner Delhi is directly under the Government of India, would it not be right for the Members of this House to enquire?

Sir Richard Tottenham: Certainly, I will enquire and get the information.

Mr. Sri Prakasa: Could the Honourable Member also enquire as to whether Mr. Chandiwala is being given Delhi newspapers also or only the newspapers published in the Punjab?

Sir Richard Tottenham: I will make enquiries.

HANDCUFFING OF DR. SUKHDEO AND MR. RAGHUNANDAN SARAN ON ARREST

1645. **Mr. Sri Prakasa:** Will the Honourable the Home Member please refer to his reply to part (b) of starred question No. 1286 asked by Mr. D. K. Lahiri Choudhury on March 22, 1945, and supplementaries arising therefrom, and state:

(a) if it is not a fact that Dr. Sukhdeo was arrested the other day in a village outside the Delhi city and brought in hand-cuffs, and, if so, the reason for this treatment;

(b) if Mr. Raghunandan Saran was also not similarly handcuffed, even though ill, when he was arrested; and

(c) if it is not a fact that he was kept hand-cuffed even while he was being medically examined in hospital?

Sir Richard Tottenham: (a) Yes. Dr. Sukhdeo was handcuffed because the police thought he might attempt to escape.

(b) and (c). I have no information. Mr. Raghunandan Saran was not arrested in Delhi or by the Delhi Police; nor as far as I know was he detained either in jail or hospital in the Delhi Province.

Mr. Sri Prakasa: With reference to the Honourable Member's reply to part (a) of the question and in view of the fact that the Home Member had said in this House that the status of a person is taken into consideration as regards handcuffing, is the Honourable Member satisfied that Dr. Sukhdeo was rightly handcuffed?

Sir Richard Tottenham: The Honourable Member is inviting an expression of opinion from me; I am afraid I cannot give it.

Mr. Sri Prakasa: With reference to the Honourable Member's reply to parts (b) and (c) of the question and in view of the fact that Mr. Raghunandan Saran was arrested at Dalhousie under orders of the Delhi Government, will the Honourable Member kindly take steps to see that their principles are followed in all such cases regarding handcuffing?

Sir Richard Tottenham: Whose principles?

Mr. Sri Prakasa: The principles of the Government of India as adumbrated by the Honourable the Home Member the other day.

Sir Richard Tottenham: We cannot enforce those principles on the Provinces.

Prof. N. G. Ranga: In which jail is he being kept today?

Sir Richard Tottenham: He is not in jail.

Mr. Sri Prakasa: May I take it that when the Government of India issue orders for the arrest of a person in a particular Province, the Provincial authority have full powers to do exactly as they like with the prisoners of the Government of India?

Sir Richard Tottenham: It must be left to the discretion of the officer who makes the arrest how he treats the prisoner when he has arrested him. The principle that the Honourable the Home Member enunciated the other day was that handcuffing was deprecated unless the arresting authority thought that there was sufficient reason to believe that the man might otherwise make his escape. I presume that it was on that ground that handcuffs were used in this case, if they were used.

Prof. N. G. Ranga: May I know if a man is kept in handcuffs even while he takes his food?

Sir Richard Tottenham: I think not!

BAN ON REPORT OF THE INDIA LEAGUE DELEGATION

1646. *Mr. A. Satyanarayana Moorty: Will the Honourable the Home Member please state:

(a) whether there is a ban on "Conditions of India", a report by the India League Delegation in 1932 signed by Miss Ellen Wilkinson and which has a preface by Lord Bertrand Russell;

(b) when the ban was imposed and what the reasons are for imposing the same; and

(c) whether Government propose lifting the ban at least now; if not, why not?

Sir Richard Tottenham: With your permission, Sir, I propose to answer Questions Nos. 1646 and 1660 together.

The report "Conditions of India" was banned on 29th March 1934. The apparent object of the report at that time was to bring the Government of India into hatred and contempt, and nothing has since happened to change its character. Government do not therefore intend to remove the ban.

Mr. T. S. Avinashilingam Chettiar: May I know how can that report defame the Government of India? What are the aspects of the report which defamed the Government of India. Has the Honourable Member read the report?

Sir Richard Tottenham: The book contained about 500 pages and it was the general character of the book, rather than particular passages, which was objectionable.

Prof. N. G. Ranga: Is there any book which can sufficiently defame this Government?

(No answer was given.)

Mr. Sri Prakasa: Is the Honourable Member assured that this book is worse than "A Verdict on India"?

Sir Richard Tottenham: Again, the Honourable Member is inviting an expression of opinion.

Mr. Sri Prakasa: You may give it: we do not mind.

BROADCAST OF DRAMATIZED VERSION OF "VERDICT ON INDIA"

1647. ***Mr. A. Satyanarayana Moorty:** Will the Honourable Member for Information and Broadcasting please state:

(a) whether he is aware that a dramatised version of Beverly Nichols's "Verdict on India" was put on the air some weeks ago by the National Broadcasting Company;

(b) whether the Government of India's propaganda agencies have a direct or indirect hand in it;

(c) whether Government propose to take steps to put an end to this Anti-Indian propaganda in the United States of America; and

(d) whether Government propose to take the Standing Committee for the External Affairs Department into confidence about the activities of their propaganda agents?

The Honourable Sir Sultan Ahmed: (a) Government have seen an item in the Press to this effect.

(b) No.

(c) Does not arise.

(d) The Indian Information Services work under the supervision of the Agent General for India in America, and are responsible to the Department of Information and Broadcasting. The Government of India do not propose to alter this arrangement.

Mr. T. S. Avinashilingam Chettiar: With reference to part (a) may I know whether the Government of India have enquired into the matter and found whether there was any truth in that report?

The Honourable Sir Sultan Ahmed: The Government made no enquiries at all.

Mr. T. S. Avinashilingam Chettiar: Why not make enquiries?

The Honourable Sir Sultan Ahmed: So much rubbish comes through the press nowadays that it is very difficult for the Government to make enquiries.

Mr. Sri Prakasa: How much of this rubbish is contributed by the Honourable Member's Department?

Mr. Govind V. Deshmukh: If there is so much rubbish in the press, will the Honourable the Leader of the House stop having conferences with press-wallas?

Mr. T. T. Krishnamachari: May I know if the Honourable Member is aware that his Department has supplied the press recently with a lot of rubbish by way of background material for being used on some future occasion?

The Honourable Sir Sultan Ahmed: It is a matter of opinion but I understand that the background materials which are provided by the Department are very much appreciated and are acceptable to the press.

INEQUITIES IN GRANT OF WAR ALLOWANCE

1648. ***Mr. Ram Narayan Singh:** (a) With reference to the statement of the Honourable Sir Jeremy Raisman made on the floor of the Indian Legislative Assembly on the 2nd November, 1944, in connection with the adjournment motion moved by Mr. Akhil Chandra Datta relating to the failure of the Government of India to extend to the non-gazetted officers of the Central Services the benefits of War allowance to the same extent to which these have been given to the gazetted officers (*vide* Finance Department office memorandum No. F. 2 (52)/W/44, dated the 25th September, 1944), will the Honourable the Finance Member be pleased to state whether the position has since been reviewed and the anomalies removed? If so, to what extent?

(b) What are the reasons for granting a uniform war allowance of 10 per cent. of pay to Government employees drawing pay up to Rs. 1,000 per month? Are Government aware of the opinion of the Rau Committee that "the principle of granting a dearness allowance at a fixed percentage of the income is open to criticism: it gives more to those who have already more and ignores the fact that the increase in the cost of living which the allowance is meant to neutralise is greater in the case of lower-income-groups than in the higher"?

(c) The reason for the provision by the Government of India of war allowance to certain gazetted officers at a rate higher than that in the case of non-gazetted officers, entitling a gazetted officer drawing pay of Rs. 200 p.m. to a war allowance of Rs. 50 as against Rs. 20 only in the case of a non-gazetted officer drawing the same pay, the percentage in the case of the former being 25, and that in the case of the latter 10?

The Honourable Sir Jeremy Raisman: (a) The revision of war allowance is still under the consideration of Government.

(b) The Rau Committee's enquiry and report concerned only the lower paid staff. For these dearness allowance is admissible, and this is not calculated as a percentage of pay.

A war allowance has been introduced in order to afford necessary relief to those on higher rates of pay. For these a percentage is considered equitable, and it should be remembered that the net benefit of a percentage allowance in these ranges is increasingly modified by income-tax.

The alternative of the percentage war allowance was offered to those entitled to dearness allowance as a measure of liberalisation.

(c) The minimum was prescribed for gazetted officers because they have to maintain a somewhat higher status than non-gazetted officers on equal rates of pay.

PRINCIPLES LAID DOWN BY RAU COMMITTEE IN REGARD TO ADJUSTING WAGES TO PRICES

1649. ***Mr. Ram Narayan Singh:** (a) Will the Honourable the Finance Member please state if Government have accepted, or if they propose to accept the following general principles laid down by the Rau Committee in regard to adjusting wages to prices;

(i) "The fact that a man accepts a certain wage does not prove its adequacy . . . he may accept it merely because he cannot get anything better no wage can be called adequate unless it is sufficient to maintain them in a proper state of health and efficiency,

(ii) "Where the wage was not adequate before the war and has become less adequate since, or where it was originally adequate and has become inadequate owing to the war—a dearness allowance should be granted so as to restore the earner as nearly as possible to his pre-war level, and

(iii) No one whose wages provided no margin over the cost of minimum subsistence must be pushed below that level by the rise in prices"?

(b) How do Government propose "to restore the earner as nearly as possible to his pre-war level", regard being had to the loss he has had to sustain during the past years and also the loss he is going to suffer during the coming years—even after the termination of the war as a result of higher level of prices?

The Honourable Sir Jeremy Raisman: (a) Government agree generally with the three broad principles referred to in this part of the question, but it will be realised that in applying such principles in practice, there is scope for difference of opinion and difficulties inevitably arise in determining with any degree of precision what was adequate and sufficient to maintain a worker in a proper state of health and efficiency before the war and what is adequate and sufficient in present day conditions.

(b) Government have throughout endeavoured through the grant of dearness allowances and other concessions, to ensure for their lower paid staff sufficient to maintain themselves and their families in a reasonable state of health and efficiency. Owing to temporary shortages of certain commodities, it has not

always proved possible to ensure for each and every Government employee the same quantities and range of commodities as before the war. Government have, however, had the matter under constant review, as will be evidenced by the succession of revisions of dearness and other allowances to which Government have given effect from time to time.

ACTION AGAINST "VERDICT ON INDIA".

†1650. *Sardar Sant Singh: Will the Honourable the Home Member please state if he has read the speech of Mr. Frank R. Anthony, M.L.A., delivered during the course of discussion on the Finance Bill on the 23rd March, 1945? If so, what action do the Government of India propose to take against the continued publication of the book "Verdict on India" in this country?

Sir Richard Tottenham: I have not read the speech, Government do not propose to take any action against the book, as there is no provision of law under which a book can be banned merely because certain individuals or classes do not agree with the personal opinions of the author expressed therein.

INADEQUACY OF NURSING STAFF

1651. *Shrimati K. Radha Bai Subbarayan: Will the War Secretary please state:

(a) if Government have seen in the Press the statement by Lady Louis Mountbatten that "medical units working behind the lines are desperately short of hands. They have only 45 per cent. of the nursing staff that they actually require. The situation as a whole is rather serious and I think that the authorities should not allow this state of affairs to continue any longer"; and, if so, what steps Government propose to take for improving this state of affairs;

(b) whether Government are aware that the shortage of nurses is due to the fact that the girls who would have taken up nursing are being induced to join the W. A. C. (I) which has less arduous duties and evidently more attractions; and

(c) if, in view of the urgency of the need for nurses, and in view of the fact that the work done by the W. A. C. (I) could be done by men, Government propose to stop further recruitment to the W. A. C. (I) and also give intensive training in nursing and medicine to women who are already in the W. A. C. (I); if not, why not?

Mr. C. M. Trivedi: (a) Yes, Sir. As regards the second part the following steps have been taken:—

(i) Trained nurses have been asked for from the U. K.

(ii) Men of comparatively high educational standards have been enlisted in the nursing section of the I.A.M.C. for training in nursing duties.

(iii) Women with nursing experience are not eligible for the W.A.C. (I), unless they have previously refused to serve as nurses.

(iv) All personnel of the W.A.C. (I), with training as nurses have been asked if they were willing to transfer to the nursing services; and those who agreed have already been transferred.

(b) and (c). The point made by the Honourable Member in part (b) has some substance, but the W. A. C. (I), is seriously under strength and we are still short of the manpower whom the W.A.C. (I), was formed to replace. It is felt that the small results which might be achieved by accepting the Honourable Member's suggestion would hardly balance the consequent loss of the W.A.C. (I). The real requirement is, I suggest, a large number of Indian women who feel a call for the nursing profession.

Shrimati K. Radha Bai Subbarayan: Sir, with reference to the Honourable Member's reply to part (a) of the question, is it a fact that Lady Louis Mountbatten said that it was impossible to expect nurses to come from the United Kingdom, because the British Government themselves have not got a sufficient number now for the Western Front?

Mr. C. M. Trivedi: We expect the situation in this respect will be eased when the war with Germany is over.

†Answer to this question laid on the table, the questioner being absent

Shrimati K. Radha Bai Subbarayan: With reference to the reply to part (b) of the question, Sir, is the Honourable Member aware that the Health Department has a different impression, *vis.*, that the recruitment to the W.A.C. (I), does affect the nursing profession?

Mr. C. M. Trivedi: That is a matter of opinion. I have already said that the point made by the Honourable Member has some substance.

Shrimati K. Radha Bai Subbarayan: In view of that fact, Sir, will the Government call for a conference of medical representatives from the Provinces, of representatives of the nursing profession and of the women's organisations to consider what immediate steps should be taken to improve the situation?

Mr. C. M. Trivedi: I will consider that.

Shrimati K. Radha Bai Subbarayan: May I ask, Sir, if it is a fact that the Indian military hospitals are suffering badly for want of nurses, and that prominent Indian citizens who are visitors to these hospitals have complained to Government that the conditions there are very unsatisfactory, and that many of our young men who are wounded and are being treated in these hospitals, are suffering a great deal due to lack of proper attention?

Mr. C. M. Trivedi: I am fully aware of the shortage of nurses.

VISIT OF DR. AMARNATH JHA TO AMERICA

1852. *Mr. A. Satyanarayana Moorty: Will the Honourable Member for Information and Broadcasting please state:

(a) whether the Government of India invited Dr. Amarnath Jha, Vice-Chancellor, Allahabad University, to proceed to U. S. A.;

(b) if so, the purpose of his visit;

(c) what will be the estimated cost of his tour; and

(d) the subjects on which he is going to lecture, and whether these subjects will be supplied to him by Government?

The Honourable Sir Sultan Ahmed: (a) to (d). Prof. A. N. Jha was invited, but as it was not possible to arrange for the tour to take place before May and June, which are the worst months for lecture tours in the United States, the proposal has been dropped for the time being. The remainder of the question does not arise.

Mr. T. S. Avinashilingam Chettiar: The remainder does arise.

Sardar Mangal Singh: Was anybody else invited?

The Honourable Sir Sultan Ahmed: Sardar Ujjal Singh.

Sardar Mangal Singh: What reply did he give?

The Honourable Sir Sultan Ahmed: He was prepared to go, but there was the same difficulty.

Prof. N. G. Ranga: For what purpose was he invited to go to America?

The Honourable Sir Sultan Ahmed: As regards the subject matters they were required not only to give formal lectures, but to do everything possible by informal talks, interviews with columnists, and other means, to dispel the illusions which still seem to be prevalent in America about India. Apart from this, they were to emphasize the magnitude of India's war effort against Japan, and India's leading place in the future of Asia. As far as political matters are concerned, they would have been free to express their personal points of view. They were required to give the general position as being that India can be satisfied with nothing less than full self-government within the British Commonwealth; but they were to be free to say anything they liked about the methods by which it should be secured.

COMPENSATORY HOUSE RENT ALLOWANCE TO CENTRAL GOVERNMENT SERVANTS IN DELHI

1853. *Mr. Ananga Mohan Dam: (a) Will the Honourable the Finance Member please state if he is aware that the compensatory house-rent allowance is admissible to the non-gazetted ministerial servants of the Central Government employed in Delhi or New Delhi drawing pay up to Rs. 500 per mensem who applied for, but have not been provided with, Government accommodation and

have consequently, made their own arrangements for residential accommodation in private rented houses?

(b) Is he further aware that the same allowance is not admissible to the non-gazetted ministerial servants of the Central Government employed in Delhi or New Delhi drawing pay up to Rs. 500 per mensem who satisfy all the above conditions but live in their own houses instead of in private rented houses? If so, what are the reasons for this discrimination?

The Honourable Sir Jeremy Raisman: (a) Yes.

(b) Yes. The allowance has not been granted to such of the ministerial staff as reside in their own houses as the concession is only intended to afford relief to those who are at present being forced to expend an unduly high proportion of their pay as rent for private accommodation.

COMPENSATORY HOUSE RENT ALLOWANCE TO CENTRAL GOVERNMENT SERVANTS IN DELHI

1654. ***Mr. Ananga Mohan Dam:** (a) Will the Honourable the Finance Member please state whether he is aware that, before the Finance Department orders regarding the grant of compensatory house-rent allowance contained in their office memorandum No. F.44(9)-W/44, dated the 21st July, 1944, came into force, the non-gazetted ministerial servants of the Central Government employed in Delhi or New Delhi drawing pay up to Rs. 500, per mensem mentioned in part (b) of the preceding question, while in occupation of Government residences, used to receive rents for their own private houses from their respective tenants which were in excess of 20 per cent. of their monthly pay?

(b) If the reply to (a) above be in the negative, do Government propose to authorise the Rent Controller, Delhi, to determine the rents of the private houses owned and occupied by the officials mentioned in (b) of the preceding question to enable them to justify their claims for drawing the compensatory house-rent allowance from 1st July, 1944? If not, why not?

(c) Do Government propose to grant compensatory house-rent allowance to those non-gazetted ministerial servants of the Central Government who fulfil the conditions laid down in paragraph 1 of the Government of India, Finance Department, Office memorandum No. F.44(9)-W/44, dated the 21st July, 1944, but reside in their own houses instead of in private rented houses with effect from the 1st July, 1944? If not, why not?

The Honourable Sir Jeremy Raisman: (a) Government have no information on the point.

(b) and (c). I would refer the Honourable Member to the reply I have just given to his previous question. Government can see no justification for extending the concession in the manner suggested and they do not intend to do so.

GRANT OF CONVEYANCE ALLOWANCE TO CERTAIN CENTRAL GOVERNMENT SERVANTS IN DELHI

1655. ***Mr. Ananga Mohan Dam:** Will the Honourable the Finance Member please state whether the Finance Department orders contained in their office memorandum No. F.44(8)-W/44, dated the 21st July, 1944, regarding the grant of conveyance allowance to Central Government servants in Delhi, will also apply with effect from the 1st July, 1944, to those Government servants who surrendered their quarters in the beginning of the summer season, 1944, and were living in their own houses when the orders referred to above came into force? If not, why not?

The Honourable Sir Jeremy Raisman: Yes. A copy of the relevant orders is laid on the table of the House.

No. F. 44 (8)-W/44.
GOVERNMENT OF INDIA
FINANCE DEPARTMENT
New Delhi, the 6th February, 1945
OFFICE MEMORANDUM

SUBJECT:—Grant of conveyance allowance to Central Government servants in Delhi.

In partial modification of the orders contained in Finance Department, Office Memorandum No. F. 44 (8)-W/44, dated the 21st July 1944, on the subject stated above.

undersigned is directed to say that it has been decided that in the case of Government servants living in their own houses in Delhi or New Delhi, the conditions laid down in paragraph 2 of the Memorandum referred to will not be applicable.

K. R. P. AIYANGAR,

Deputy Secretary to the Government of India.

To All Departments of the Government of India, and the Secretaries to the Governor General.

No. F. 44 (8)-W/44

Copy forwarded to the Political Department, the Federal Court of India, the Auditor General of India, etc., etc.

By order, etc.,

B. L. BATRA,

Assistant Secretary to the Government of India.

No. F. 44 (8)-W/44

GOVERNMENT OF INDIA

FINANCE DEPARTMENT

New Delhi, the 19th March, 1945

OFFICE MEMORANDUM

SUBJECT:—*Grant of conveyance allowance to Central Government servants in Delhi.*

With reference to this Department Office Memorandum No. 44 (8)-W/44, dated the 6th February 1945, the undersigned is directed to say that the orders contained therein will apply with effect from the 1st July, 1944.

B. L. BATRA,

Assistant Secretary to the Government of India.

To All Departments of the Government of India and the Secretaries to the Governor General.

No. F. 44 (8)-W/44

Copy forwarded to the Political Department; the Federal Court of India; the Auditor General of India; the Financial Commissioner, Railways; the Central Board of Revenue; the Financial Adviser, War and Supply Finance; the Additional Financial Adviser, Supply; the Accountant General, Central Revenues; the Crown Finance Officer; the Financial Adviser, Communications; the Chief Controller of Supply Accounts; the Controller of Food Accounts and the Accountant General, Posts and Telegraphs.

By order, etc.,

B. L. BATRA,

Assistant Secretary to the Government of India.

NATIONAL SAVINGS FORTNIGHT HELD IN DELHI

1656. *Mr. Ananga Mohan Dam: (a) Will the Honourable the Finance Member please state whether he is aware that a 'National Savings Fortnight' was held in Delhi from the 8th to the 22nd January, 1945, during which the maximum possible collections were made for investment in National Savings Certificates?

(b) Is he aware that the Chairman, Provincial National Savings Committee, Delhi, decided to recommend that all the authorized agents who secured collections of Rs. 25,000, or more for investment in National Savings Certificates during the fortnight will be given a letter of commendation by the Chief Commissioner, Delhi, and that those who collected Rs. 10,000 or more (but less than Rs. 25,000) will be given a letter of commendation by the Deputy Commissioner, Delhi?

(c) Will he please state separately the number of authorized agents in each of the two categories referred to in part (b)?

(d) How many authorized agents in each category have actually been given letters of commendation? If none, when do they hope to get them?

The Honourable Sir Jeremy Raisman: (a) to (d). Enquiries are being made and a reply will be laid on the table of the House in due course.

Mr. T. S. Avinashilingam Chettiar: May I know whether Government have sent the circular which the Finance Member promised to send over the matter of collection of small savings in the country?

The Honourable Sir Jeremy Raisman: No, not yet.

Prof. N. G. Ranga: When does he hope to send the circular that no undue measures of oppression and repression should be used in order to make people subscribe to these funds?

The Honourable Sir Jeremy Raisman: When my constant pre-occupation with the Assembly is over, I hope to be able to attend to the matter.

Mr. T. S. Avinashlingam Chettiar: Do you expect to issue it before you go?

The Honourable Sir Jeremy Raisman: The continuity of the Government of India does not depend on individuals.

(b) WRITTEN ANSWERS
PRESS CONFERENCES HELD

1657. ***Mr. S. K. Hosmani:** Will the Honourable Member for Information and Broadcasting please state:

(a) the number of press conferences held since 1st January, 1945, the names of the Accredited Press Correspondents who attended them and the reasons for those who could not attend any of them; the material supplied to them and the dates on which that material was given publicity in the newspaper they represented;

(b) the names of the correspondents who are accepted for, or rejected from, accreditation, and the category in which they are placed together with the date of such accreditation since March 1943;

(c) if circulation of news by news agencies through peon or by hand is a form of *News Bulletin*;

(d) if the Debates of the Central Legislature are supplied to the Accredited Press Correspondents on the condition that they are admitted to the Press Galleries of that legislature; if not so, the reasons for the justification of the expenditure on their supplies to those correspondents who are not admitted to the Press Galleries of that Legislature;

(e) the number of copies of the Debates of the Central Legislature received from that Legislature for distribution to Accredited Press Correspondents, and the number so actually distributed together with the reasons for any discrepancy; and

(f) the authority who has arranged the Middle East tour for Press Correspondents; the amount of expenditure incurred thereon, and the correspondents who availed themselves of the invitation?

The Honourable Sir Sultan Ahmed: (a), (d), (e) and (f). A statement is laid on the table of the House.

(b) The Honourable Member's attention is invited to the replies given in this House on March 1, 1945, to Mr. Badri Dutt Pande's unstarred question No. 34 and part (c) of unstarred question No. 85.

(c) This is a matter of opinion and the Honourable Member can draw his own conclusion.

Statement

(a) 7 Press Conferences were held between January 1st and March 29th, 1945. These Conferences were attended by Representatives of important newspapers and news agencies. Representatives do not, in general, send us their reasons for non-attendance. Nor are there any means of checking whether material handed to Correspondents at Press Conferences is published in all the newspapers they represent. Normally reports are published the day after a Press Conference is held or on the day fixed for publication.

(d) and (e). No. Copies of the Debates of the Central Legislature are supplied to Category "A" correspondents irrespective of whether they are or are not admitted to the Press Galleries of the Legislature. Distribution is confined to Category "A" correspondents. Copies of the Debates of the present Session of the Legislature so far received have been distributed to them.

(f) The tour was arranged by the War Department. The expenditure involved was approximately Rs. 15,000. The following newspaper representatives went on tour to the Middle East:

1. AMRITA BAZAR PATRIKA, CALCUTTA. Mr. J. N. Sarkar.
2. CIVIL & MILITARY GAZETTE, LAHORE. Mr. F. W. Bustin.
3. DAWN, DELHI. Mr. Pothan Joseph.

4. DHINAMANI, MADRAS. Mr. A. N. Srinivasan.
5. HINDU, MADRAS. Mr. V. K. Narasimhan.
6. HINDUSTAN TIMES, NEW DELHI. Mr. Durga Das.
7. NAVA BHARAT, NAGPUR. Mr. Nandi Kishore.
8. NAWA-I-WAQT, LAHORE. Mr. S. H. Mahmud.
9. SAKAL, POONA. Mr. J. P. Deshmukh.
10. TIMES OF INDIA, BOMBAY. Mr. H. B. Stimson.

CLASSIFICATION OF ACCREDITED PRESS CORRESPONDENTS

1658. ***Mr. S. K. Hosmani**: Will the Honourable Member for Information and Broadcasting please state: if it is a fact that Accredited Press Correspondents are grouped in Class A and Class B, according to (i) his standing in the profession as determined by the time he has spent in the profession as correspondent, (ii) the status he has attained as Servant or Proprietor, and (iii) the standing of the newspaper or news agency he represents?

The Honourable Sir Sultan Ahmed: Correspondents are accorded category 'A' or 'B' privileges according to:

(1) the time they have spent and/or the status they have attained in the profession.

(2) the standing of the newspaper or newsagency they represent.

PROTECTION OF TRAVELLING PUBLIC FROM HARASSMENT BY POLICE AT JUMNA BRIDGE, DELHI

1659. ***Mr. S. K. Hosmani**: Will the Honourable the Home Member please state the measures taken for the protection of the travelling public from harassment by the Police on duty at the Jumna Bridge, Delhi? If no measures have been taken why?

Sir Richard Tottenham: I regret that the enquiries I have initiated in this matter have not yet been completed. The result will be laid on the table of the House in due course.

BAN ON REPORT OF THE INDIA LEAGUE DELEGATION

†1660. ***Mr. Satya Narayan Sinha**: Is the Honourable the Home Member aware that a report was published in London by the India League Delegation which was signed by Miss Ellen Wilkinson and the preface of which was written by Lord Bertrand Russel? Is the said report still banned in India? If the reply be in the affirmative, does he propose to lift the ban; if not, why not?

UNSTARRED QUESTION AND ANSWER

DEARNESS ALLOWANCE TO PENSIONERS

134. **Khan Bahadur Shaikh Fazl-i-Haq Piracha**: (a) Will the Honourable the Finance Member be pleased to state if it is a fact that the concession of dearness allowance has been given to Government pensioners drawing pension up to Rs. 75? If so, at what rate and on what principles?

(b) Is dearness allowance allowed in any form to pensioners drawing between Rs. 80 and Rs. 200? If not, the reasons therefor?

(c) Have any official or non-official enquiries been made with regard to dearness allowance to pensioners? If the reply is in the negative, do Government propose to set up an Enquiry Committee for the purpose?

The Honourable Sir Jeremy Raisman: (a) and (b). I have nothing to add to the reply I gave on the 16th November 1944 to Starred Question No. 481. There has been no subsequent change in the rate of temporary increase in small pensions.

(c) No special enquiry has been held in regard to the relief to pensioners. The present rates were however fixed after consultation with the Provincial Governments and they have the general support of these Governments, and I do not think that the constitution of an enquiry committee would materially add to the information already in the possession of the Government of India.

MOTION FOR ADJOURNMENT

REQUISITIONING BY GOVERNMENT OF BRAHMASHRAM MASUR, AMBERNATH

Mr. President (The Honourable Sir Abdur Rahim): I have received notice of an adjournment motion from Mr. Govind V. Deshmukh who desires to move that the business of the Assembly be adjourned to discuss a definite matter of urgent public importance, namely, the requisitioning by the Government of Brahmashram Masur, which includes temple and holy religious math and residential huts of the hermits at Ambernath—an action which will irritate the Hindus and cause bitterness towards the Government.

Mr. Ram Chandra (Secretary, Defence Department): I have now been able to get information both from the Bombay Government and the military authorities. The information which I have been able to obtain shows that the temple has not been requisitioned. As regards the Ashram, the notice which was issued was not accepted by the inmates of the Ashram, and the Ashram has not been taken possession of. Further, the Honourable Member will be glad to know that it has been decided to de-requisition the Math and the Ashram which includes the hermits' huts.

Prof. N. G. Ranga (Guntur *cum* Nellore: Non-Muhammadan Rural): Will the same procedure be followed in the case of the temple in South Kanara?

Mr. President (The Honourable Sir Abdur Rahim): That does not arise.

ELECTION OF MEMBERS TO THE STANDING COMMITTEE FOR COMMERCE DEPARTMENT

Mr. President (The Honourable Sir Abdur Rahim): I have to inform the Assembly that the following non-official Members have been elected to serve on the Standing Committee for the Department of Commerce: Mr. N. C. Chunder, Seth Sunder Lall Daga, Maulvi Muhammad Abdul Ghani, Mr. Sami Venkatachalam Chetty, Mr. E. L. C. Gwilt, Mr. Kailash Bihari Lall, Mr. Muhammad Hussain Choudhury, Bhai Parma Nand and Mr. Manu Subedar.

ELECTION OF A MEMBER TO THE CENTRAL COMMITTEE OF THE TUBERCULOSIS ASSOCIATION OF INDIA

Mr. President (The Honourable Sir Abdur Rahim): I have also to inform the Assembly that Dr. Sir Ratanji Dinshaw Dalal has been elected to sit on the Central Committee of the Tuberculosis Association of India.

ELECTION OF A MEMBER TO THE PUBLIC ACCOUNTS COMMITTEE

Mr. President (The Honourable Sir Abdur Rahim): I have further to inform the Assembly that upto 12 Noon on Wednesday, the 4th April, 1945, the time fixed for receiving nominations for the election of a Member to the Committee on Public Accounts only one nomination was received. As there is only one vacancy I declare Mr. G. W. Tyson to be duly elected.

Maulvi Muhammad Abdul Ghani (Tirhut Division: Muhammadan): Sir, I have given notice of an adjournment motion.

Mr. President (The Honourable Sir Abdur Rahim): It was received after 11 A.M.

Maulvi Muhammad Abdul Ghani: It was handed over at 10-35.

Mr. President (The Honourable Sir Abdur Rahim): I have not seen it: the Secretary says he got it after 11 o'clock.

Maulvi Muhammad Abdul Ghani: I handed it over myself here. May I inquire from the Honourable Food Member?

Mr. President (The Honourable Sir Abdur Rahim): I did not get it at all. I have not seen it at all. The Honourable Member ought to have sent it to me.

Maulvi Muhammad Abdul Ghani: Are they different?

Prof. N. G. Ranga (Guntur *cum* Nellore: Non-Muhammadan Rural): Before we proceed can the Honourable Member give a further notice of adjournment motion tomorrow?

Mr. President (The Honourable Sir Abdur Rahim): That is for him to decide. I am not going to give any instructions.

Prof N. G. Ranga: Government might raise objection.

Mr. President (The Honourable Sir Abdur Rahim): If the Government raises any objection I will consider and decide it.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): May I ask if, when an Honourable Member of this House makes a statement before the House that he handed over the notice at 10-35, is it open to be questioned?

Mr. President (The Honourable Sir Abdur Rahim): Certainly, the gentleman to whom he says he handed it over says he received it after 11 o'clock.

Sir Muhammad Yamin Khan: Who is to be trusted?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has no reason to think, he is not justified in suggesting, that my informant is misleading me.

Sir Muhammad Yamin Khan: Sir, the question is between two persons. One is an Honourable Member of this House and he has made a certain statement

12 Noon

Maulvi Muhammad Abdul Ghani: The fact is, Sir, if you will permit me to make a statement

Mr. President (The Honourable Sir Abdur Rahim): Will the Honourable Member resume his seat? I have given my ruling.

Maulvi Muhammad Abdul Ghani: On a point of order, Sir

Mr. President (The Honourable Sir Abdur Rahim): There is no other point of order. I have heard him enough.

Maulvi Muhammad Abdul Ghani: Without hearing me, Sir, how can you decide that there is no point of order?

Mr. President (The Honourable Sir Abdur Rahim): The same question is being repeated; and repeating it in another form does not make it a point of order.

Further consideration of the motion moved by Mr. Kazmi.

THE INDIAN PENAL CODE (AMENDMENT) BILL—*contd.*

(INSERTION OF NEW SECTION 93A)

The Honourable Sir Asoka Roy (Law Member): Sir, I was in possession of the House. This motion was last before the House on the 1st of March; and in view of the time which has elapsed since my speech on the motion was interrupted, I will with your permission briefly remind the House of the points which I sought to make on that occasion.

I urged in the first place that properly understood this Bill did not touch any question of parliamentary privilege as such, but sought merely to amend the ordinary criminal law by inserting or by setting up a general exception with the effect of extinguishing any criminal liability which would arise from the publication, otherwise than by an official report, of any speech made in an Indian Legislature. I submitted that there was no case for a wholesale immunity of this nature and that no support for such wholesale immunity could be drawn from the law in force in the United Kingdom. I cited the well known case of *Wason v. Walter*, where it was held that a faithful report in a public newspaper of a debate in either House of Parliament containing matter disparaging to the character of an individual which had been spoken in the course of the debate is not actionable at the instance of the person whose character has been called in question. But the publication is privileged on the same principle as an accurate report of proceedings in a court of justice is privileged, *viz.*, that the advantage of publicity to the community at large outweighs any private injury resulting from the publication

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): What is the case you referred to?

The Honourable Sir Asoka Roy: *Wason v. Walter*, which was referred to on the last occasion. On the authority of this case I submitted that under the law of the United Kingdom no civil action or criminal proceedings will lie for libel in

respect of a fair and faithful newspaper report of the proceedings of Parliament but that the publication of a speech which would otherwise render the newspaper liable to prosecution for an offence other than libel will not be protected by reason of the fact that the speech was made in Parliament and was published in the course of a full and fair report of the proceedings of Parliament. I then referred to the fact that not only was there no protection in the United Kingdom from prosecution in respect of the publication of proceedings of Parliament when such publication would otherwise constitute a public crime, but that a proposal to insert a clause to this effect in the Bill which became the Libel Act, 1843, was rejected and thereafter the proposal had never been renewed. When the House rose, I had just quoted and adopted as my own an argument used by Lord Brougham in resisting the insertion of the proposed clause in the House of Lords.

From what I said, I hope it will be clear to this House that the Honourable Mr. Kazmi is mistaken in supposing,—as he apparently does,—that his Bill would do nothing more than bring the law in this country into line with the law of the United Kingdom. In support of his view of the position, he cited a passage from an article in Halsbury's Laws of England on libel and slander. That passage occurs in the recital of the occasions under which a plea of privilege can be set up as a defence to an action arising out of a defamatory statement and it therefore bears out my statement of the relevant law in the United Kingdom. A similar comment applies to the citation by the Honourable the Leader of the Opposition of the dictum from *Wason v. Walter* quoted in page 108 of May's Parliamentary Practice, that "if a member publishes his own speech reflecting on the character of another person and omits to publish the rest of the debate, the publication would not be fair and so would not be privileged, but that a fair and faithful report of the whole debate would not be actionable". Reference was made by my Honourable friend the Leader of the Opposition to the Parliamentary Papers Act of 1840. The substance of the provisions of that Act is contained in the passage which my Honourable friend Mr. Kazmi read from Halsbury's Laws of England and also in the passage at p. 109 of May's Parliamentary Practice which was read by my Honourable friend the Leader of the Opposition. That Act gives statutory protection to proceedings in respect of certain publications. That, however, in no way affects the view of the *ratio decidendi* of *Wason v. Walter* which I have submitted to this House. The proposition laid down in *Wason v. Walter* is neatly summarised in para. 591 of Halsbury's Laws of England at page 485:

"Fair and accurate reports of proceedings in Parliament although disparaging to the character of individuals have a common law immunity similar to that given to fair and accurate reports of proceedings in courts of justice."

It will be noticed that *Wason v. Walter* laid down what was considered to be the common law immunity; and the Parliamentary Papers Act gives certain statutory protection. My Honourable friend the Leader of the Opposition, I am sure, is aware that the High Courts in India have accepted the case of *Wason v. Walter* as good law in this country, and in that view I do not think the position in India is as unsatisfactory as Mr. Kazmi would have us believe. I admit, however, that there are no statutory provisions here similar to the provisions of the Parliamentary Papers Act of 1840. Sir, on this aspect of the case, my position is as follows. An argument could be drawn from the law of the United Kingdom in favour of an exemption of full and fair newspaper reports of the proceedings of a legislature from liability to civil or criminal proceedings for libel but no argument can be drawn therefrom for—indeed the strongest possible argument can be drawn against—the wholesale exemption from criminal liability proposed in Mr. Kazmi's Bill.

Sir, it appears to be suggested in the Statement of Objects and Reasons that the provision made in Standing Order 29 of our Standing Orders, which may be assumed to be common to all Indian Legislatures, is sufficient to ensure that nothing will be said in a legislature of which the publication could constitute an offence. The obvious reply is that, if this suggestion were in fact sustainable, this Bill would be unnecessary, because there will be no possibility of the accrual

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in practice of the criminal liability which the Bill seeks to extinguish. But, in fact, it is of course obvious that it is not practicable for the Chair to intervene until an infringement of the Standing Order has sometimes been actually committed and a full and fair report of the proceedings may often involve publication of matter offending against the Standing Order and against the criminal law of the country.

The sole practical case sought to be made for the Bill is that adequate press publicity for the proceedings of Legislatures will be impossible if the Press is not freed from liability to prosecution in respect of reports of the proceedings. I put it to the House with complete confidence that this argument is, on the face of it, illusory and that the proceedings in this House and other Legislatures in fact receive the most ample press publicity. It is highly significant that the only instance which any Honourable Member has been able to cite of the publication of a speech made in an Indian Legislature involving untoward consequences to the Editor or publisher was the case to which reference is made in the Statement of Objects and Reasons and I note incidentally that this solitary case is beside the point for the purposes of the present Bill inasmuch as the sole effect of the Bill, with its proposed insertion of a new general exception to the Indian Penal Code, would be to take the publication in good faith of speeches made in the Legislature out of the category of an offence as defined in section 40 of the Code and the Bill would in no way preclude action under the Indian Press Emergency Act, such as was taken in the *Abhyudaya* case. I may remind Honourable Members that case was nearly ten years old.

For all these reasons, I regard the Bill as misconceived and I put it to the Honourable Mr. Kazmi and the Honourable the Mover of the amendment that their appropriate course would be to ask for leave to withdraw their motions and thereafter, if they are so advised, to give notice of a new Bill designed to bring the law of this country into line with what is in fact the law of the United Kingdom. My Honourable friend the Leader of the Opposition in supporting the motion for circulation made it quite clear that he did not desire to go beyond what he called the threefold protection given by the Parliamentary Papers Act of 1840. But, Sir, that is not what Mr. Kazmi's Bill seeks to obtain. My Honourable friend the Leader of the Opposition conceded that Mr. Kazmi's Bill was not accurately expressed. That, Sir, I submit was putting the point euphemistically.

Dr. P. N. Banerjea (Calcutta Suburbs: Non-Muhammadian Urban): That can be cured.

The Honourable Sir Asoka Roy: My friend Dr. Banerjea says that it can be cured. I wonder if my Honourable friend has read the language of the Bill. The present Bill seeks to introduce into the Indian Penal Code a section which is to be numbered as 93A, and which lays down that "no publication made in good faith of any speech or speeches in any Indian Legislature is an offence." I can see no prospect of any rational measure being evolved on the basis of the existing Bill and I am therefore unable to support the amendment for the circulation of the Bill.

As to the original motion, I would merely desire to supplement what I have already said by pointing out that the subject matter of the Bill relates to the concurrent legislative list and that it would be beyond all reason for the House to refer the Bill to a Select Committee and thereby to accept the principle of the Bill, with no indication whatever that its principle would commend itself to Provincial Governments or Legislatures or to judicial opinion or to the public at large. I believe, Sir, the Honourable Mover of the amendment realised that fully and in a short speech he indicated that it would be desirable to have circulation of the Bill, but as I have explained I cannot lend my support to the motion for circulation because I think the Bill with all respect to Mr. Kazmi is hopelessly drafted. He has introduced a Bill in this Legislature which is not what he believes it to be. My Honourable friend Mr. Kazmi thought that he was doing nothing more than introducing a Bill to bring the law of this country

into line with the law of the United Kingdom. I can appreciate the point made by my Honourable friend the Leader of the Opposition that he would like a Bill more or less on the lines of the Parliamentary Papers Act of 1840 but, as I submitted to this House, that is not what Mr. Kazmi seeks to obtain and in those circumstances I venture to think that the House should accept my suggestion and ask the Honourable Mover of the Bill and the Honourable Mover of the amendment to withdraw their motions and Mr. Kazmi could then, if he so desired, put forward a Bill on the lines indicated by the Leader of the Opposition. That is all I have to say.

Dr. P. N. Banerjea: Why should not Government bring forward such a Bill?

The Honourable Sir Asoka Roy: That question need not be answered by me.

Mr. T. S. Avinashilingam Chettiar: I am glad that my Honourable friend Dr. Banerjea put that question. The Law Member's attitude has been entirely negative. The only positive suggestion that he made was that another Bill can be brought forward in this House. He knows full well the hurdles which a non-official Bill in this House has to pass through. If he is anxious and sincere, the only thing open to him is to give an assurance on the floor of the House that this Bill may be withdrawn and he will bring forward a Bill on the model he has chalked out.

The Honourable Sir Asoka Roy: May I say that I have no anxiety in this matter at all. I do not think the position is very unsatisfactory at the moment. I have already indicated to you, Sir, that the decision in *Wason versus Walter* has been accepted as good law in this country. I have in mind the well known case decided in the Calcutta High Court, the case of *Lala Lajpat Rai versus Englishman* newspaper, where the judgment of the High Court, sitting on appeal from the judgment of Mr. Justice Fletcher, laid down in unmistakable terms that what had been decided in *Wason versus Walter* was settled law. I think the decision in *Wason versus Walter* is a very satisfactory decision.

Mr. T. S. Avinashilingam Chettiar: Then, Sir, if I were to question the alternative suggestion that he has given

The Honourable Sir Asoka Roy: I had to give that suggestion. If my Honourable friend Qazi Muhammad Ahmad Kazmi's legislative zeal continues, he might consider the drafting a Bill on the lines suggested by the Honourable the Leader of the Opposition. My Honourable friend the Leader of the Opposition realised that the Bill as drafted was a hopeless Bill, if I may say so with great respect to Mr. Kazmi. He said in his speech, "I admit that the Bill is not comprehensive, that the language of Mr. Kazmi's Bill is not very accurately expressed, but we can see some principle behind it and after circulation we might try to straighten out something from this Bill". Well, Sir, I think it is a much more satisfactory course to adopt to have a proper Bill drafted and proceeded with, if the House so desires.

Mr. T. S. Avinashilingam Chettiar: Is my Honourable friend prepared to follow the opinion of the Leader of the House in this matter in that he supported the motion for circulation of the Bill?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member may go on with his speech.

Mr. T. S. Avinashilingam Chettiar: Sir, this Bill may be considered from two points of view. Before going to certain of the decisions which the Honourable the Law Member quoted, I should like to say this. It is no use quoting the English law, quoting the English practice and saying that in this matter we can follow the English law and English practice knowing full well that the liberty of the Press in England is something which is not available in this country, knowing full well that the English press is allowed to publish almost everything which does not impinge on the security of the country. What happens in this country? Action is taken against the Press on almost everything, when the Press says something very plain about the administration of the country. Anything is brought under Press control. Anything is construed as bringing the administration into contempt. What else can the Press say, because

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the Government in this country deserves only contempt. If the Press publishes such a thing, then action is taken against them. I only heard this morning that a book which published the exact situation and condition of the people in this country was construed to bring the administration into contempt and it was prosecuted. I submit that the Press in this country has always feared to publish speeches lest they should come under the clutches of law and the only place where frank expression of opinion can be given is this House.

The Honourable Sir Asoka Roy: May I interrupt my Honourable friend? I thought he said that we only heard today about prosecution for a book.

Mr. T. S. Avinashilingam Chettiar: I only heard today from the Honourable the Home Member at question time.

The Honourable Sir Asoka Roy: There was no prosecution.

Mr. T. S. Avinashilingam Chettiar: I am sorry, I should have said, proscribed the book. I can refer my Honourable friend to question No. 1646.

The Honourable Sir Asoka Roy: We are talking of debates in the Legislature and not of books in general.

Mr. T. S. Avinashilingam Chettiar: My Honourable friend will understand my point of view, if he only waits for a minute more. I was saying, Sir, that the only place where we can give frank expression of opinion is this House. Here we are able to expose properly the vagaries of the administration of the country. Have you heard, Sir, that in any other country, in the matter of savings movement, the highest and the worst forms of oppression have been exercised by the administration of that country? But can anybody dare say this anywhere outside this House and yet be free from going to jail? We cannot say this outside the country because we will be prosecuted straightaway. We are able to refer to all those oppressions in this House, but if this is not broadcast outside the House in the country by publishing those speeches in the newspapers, if you shut the mouth of the public even in this, what else can be done? My Honourable friend said that there was only one case in which action was taken when a speech delivered in this House was published. I agree that only in one case action was taken. But how many thousands of cases there are, in which the newspapers refused to publish because they were afraid that they would come within the arms of the law. This talking of statistics leads us nowhere. It is just like the Honourable the Home Member saying what is the percentage of arrests in this country compared to the population of the country? So, I submit that for every one of the cases in which prosecution was launched, there are thousands of cases in which people fearing prosecution did not publish the speeches at all in the newspapers. So, referring to the solitary instance mentioned in the Statement of Objects and Reasons is not really any argument at all against the Bill.

Now, Sir, I come to the question of the actual wording of the Bill . . .

The Honourable Sir Asoka Roy: May I interrupt my Honourable friend once more? Apart from this solitary reason which Mr. Kazmi gave in his Statement of Objects and Reasons, I do not know whether my Honourable friend was present when the Honourable the Leader of the Opposition was making his speech or heard him say—I am reading one sentence from several sentences, all to the same effect—"though I confess no action has been taken either by a private individual or at the instance of the Crown, this matter should be put on a sound footing as a matter of privilege". Also in another passage, he says, "It happens fortunately that the publication of the reports of this House, other than official publications, have not been brought up before any court of law". So, my Honourable friend is conceding that even in this country, reports of the Legislature are hardly ever brought before courts of law on any civil or criminal proceedings.

Mr. T. S. Avinashilingam Chettiar: The point is that it is open for the Government to prosecute the people, if they consider fit and if they publish the proceedings of this House. That is the law today. You cannot deny that

The Honourable Sir Asoka Roy: May I again point out to my Honourable friend that what Mr. Kazmi seeks to say is this, that nothing which is said

in this House is to be treated as an offence under the penal laws of this country. That, Sir, I submit is a position which would not be right, because can you not conceive of a Member of this House making a speech which would be a direct incitement to class hatred, setting up one class against another, can you not conceive of a speech made by a Member of this House wherein he utters words with intent to wound the religious feelings of some other Members. You can certainly conceive certain instances of that kind. Therefore, what I have been pointing out to my Honourable friends in this House is that you cannot have a law on the lines of Mr. Kazmi's Bill that nothing said in any circumstances in this House is to be treated as an offence.

Mr. President (The Honourable Sir Abdur Rahim): I think the Honourable Member should continue his speech.

Mr. T. S. Avinashilingam Chettiar: It is for this reason, Sir, that I admit that the Bill is capable of amendment. We do not say that everything that is said in the Bill is sacrosanct, every comma, every semi-colon must be retained. The motion before the House is that the Bill be circulated for eliciting public opinion, that opinions may be obtained, then it may be referred to a Select Committee and then it may be properly amended in the Select Committee. But all the arguments advanced by the Honourable the Law Member are designed to prove that the Bill is not necessary and that the Bill admits of no amendment. Over that, we have to disagree. I was saying that there are two aspects of this Bill. The speeches made in this House may be published outside in the newspapers or by private presses by the Members themselves. One is that action may be taken by Government for sedition and bringing the Government into contempt; they have the elaborate machinery of law for practising repression in this country. Secondly, it may be a libel against particular individuals or particular classes of individuals. So, for the first case I think it should not be possible for Government to take action on the publication of speeches made in this House. The reason is this. Paragraph 61 of the Manual of Business and Procedure lays down that—

“(1) The matter of every speech shall be strictly relevant to the matter before the Assembly.

(2) A member while speaking shall not

* * * * *
(v) utter treasonable, seditious, or defamatory words.”

That is a complete protection to Government. If even then you say that such speeches are made you imply that the President is not doing his job properly.

Mr. President (The Honourable Sir Abdur Rahim): The President cannot always say off-hand whether a speech answers such a description.

The Honourable Sir Asoka Roy: I think the Honourable Member was not listening to my speech.

Mr. T. S. Avinashilingam Chettiar: I was listening but I was not convinced by it.

The Honourable Sir Asoka Roy: You will never be convinced by what I say.

Mr. T. S. Avinashilingam Chettiar: The point that I am trying to make is that there is something in the rules and there is the President here to see that speeches are not seditious or made with a view to bring the Government into contempt. In this connection I must say that conditions in this country are not the same as in Europe. Here anything said about a white man or about the administration is sedition; here to claim independence is sedition. While Government say on one hand that independence will be given to India, the Independence Day celebrations are banned and people are arrested and put in jail even today for celebrating it. And then a Member of Government has the temerity to say, “We hold on to that promise but we will still put you in jail”. Here national flags are banned; are Union Jacks banned anywhere in the United Kingdom? These things can be said in this House only; outside it is a concentration camp and people are afraid to express their opinions. And what we want is that even outside this

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House people should not be denied the right to publish speeches that are made here and frank expressions of views made in this House should be allowed to be published in the newspapers of the country. That is the purpose of this Bill; and it is no use trying to cloud the issues by saying that in England and America it is different. Of course it is different; nothing takes place there which happens in this country. The whole atmosphere is different. The standard of liberty is different in India from that obtaining in those countries, in regard to the people and the press. So there is no use quoting the example of those countries. There it is a government of the people and reflects the views of the people; here Government goes against the wishes of the people. The case mentioned by the Honourable Law Member is, I hope, the one mentioned on page 108 of May's Parliamentary Practice:

"The Lord Chief Justice of England, in a more recent case, further laid it down that 'if a member publishes his own speech, reflecting upon the character of another person, and omits to publish the rest of the debate, the publication would not be fair, and so would not be privileged,' but that a fair and faithful report of the whole debate would not be actionable."

May I take it that this means that anything said and spoken in this House can be published as a whole in a newspaper and will not be actionable by law in this country? Is that the Honourable Member's contention?

The Honourable Sir Asoka Roy: Sir, I do not know if my Honourable friend wants to me to make a second speech.

Mr. President (The Honourable Sir Abdur Rahim): No, the Honourable Member should go on with his speech.

Mr. T. S. Avinashilingam Chettiar: I only wanted a 'yes' or a 'no'. I maintain that it is possible to take action against libel made against any individuals or persons in this House. We do not want protection about that. But the protection that we want is against the action of the State itself. They are the main culprits; and that is the main object of introducing this Bill. The Honourable Mover surely does not want to abuse people here then broadcast it to the country; what he does want is this. That when we express our views about the State in this House we are not free to express them outside because action is taken. The Bill may be properly amended to provide for punishment for libel against individuals, but action should not be taken in cases of expression of opinion against this Government. I request the House and also the Law Member not to be misled by English precedents; conditions there are not the same as here in regard to this matter. So that if we make a law it must have reference to the conditions obtaining in this country. There is at least one place where frank expression of views about Government is allowed in this country and the proceedings of that place should be allowed to be published throughout the country. I suggest to the Law Member that if he has that confidence in my Leader to which he gave expression, he should accept the motion for circulation which my Leader supported and which was moved from this side of the House.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, the motion before the House is for circulation or for a Select Committee. The question is whether the Bill is such as to be killed at this stage. The two points are whether this Bill is important or not and whether it is a contested Bill or not. It is certainly an important Bill and it is also contested by one side or the other who put forward different views. That such a Bill should not be circulated and opinions collected is wrong. It may be said that if we have more opinions to support one side or the other it would be better. So I say it would be wrong on the part of Government to throw out the Bill at this stage. The situation today requires more opinions to be collected and more material to know the mind of the people, and also the mind of the press, as to whether such an enactment is necessary or not. Who are affected, I ask? You are at present not allowing the press to speak out and show to the Honourable Member in charge that it is not only one instance of handicaps that has happened but there have been many cases where they have not published the stuff; they have withheld it; they have been helpless. It is therefore

necessary that they should be given a lead, the sort of lead which the Honourable Member has given by saying 'if any fair and full debate is published, there will be no offence'. But do they know this? No. At the time of the former case already referred to, the opinion of the press was different, yet a ban was put on them. Therefore, they think that they cannot publish anything, not even a full and fair report. They are afraid of doing so, because they know that Government has its own way of interpreting the extracts or the portions which are published. They can say 'it is not fair, and it is not full', and therefore it comes under the law which provides for punishment. Therefore, I submit that the Honourable Member should, on the contrary, welcome such opinions, and win for himself the credit that during his tenure of office such laws, which are very important, are enacted.

The Honourable Sir Acooka Roy: The credit will go to Mr. Kazmi.

Mr. Lalchand Navalrai: You are finding fault with him too much; you had better find fault with yourself. I can see that you are blaming him for framing the Bill in this particular manner—I am coming to that point.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadian Rural): Lawyers live by such quibbles!

Mr. Lalchand Navalrai: The greater lawyer on your side has already spoken—we have respect for him.

Dr. P. N. Banerjee: The lawyer from our side is also speaking.

Mr. Lalchand Navalrai: What I am submitting is that the press requires a lead in this case because your law is at present doubtful. They think it is wrong to publish an extract from the debate of this House or the other House—they have that mentality. When I say that I have in mind the case of Mr. K. Kanta Malaviya, which has been referred to, who after he said something here, went and published it in his own paper. It is from that day that press is shirking and does not even publish what the Honourable Member calls 'a fair and full report'. Therefore I say that this matter should be made clear and the public should know the views of the Honourable Member. If I understood him aright, the Honourable Member said that any publication of the proceedings of this or the Upper House cannot be considered an offence if it is a fair and full report. The second thing that he said was that if it is not so, if that is libellous—then he will be liable to punishment. That should be made clear to everybody that that is the view of the House. If this Bill is not referred to a Select Committee who will know what the Honourable Member has said in this House? Who is reading all our debates to find out what the different Members have said? Therefore, from that point of view, Sir, I submit that the Bill be circulated.

Then I come to the great fight which the Law Member had with Mr. Kazmi. The Honourable Member said that his Bill covers everything; it is a general Bill; it covers even a libel; it says that if any libellous publication has been made, it should also be protected. I do not think that the Bill as framed by Mr. Kazmi means that. While reading the Bill, the Law Member said that according to this Bill Mr. Kazmi wants that any kind of publication, in other words, any speech or speeches in any Indian Legislature of whatever nature they may be, should be protected. But that is not what the Bill provides. It says:

"No publication made in good faith, of any speech or speeches in any Indian Legislature, is an offence."

Mark the words 'good faith'—perhaps that has not attracted the attention of the Honourable the Law Member. If any publication is made in good faith, without malice, and it is done with care and caution, then there is no question of libel. The Bill in that sense is perfect. It is only because the Honourable Member is taking a very technical view that he does not agree with that. But we know that whenever they have no case they bring in technical objections to throw out a Bill. Then my Honourable friend says that the Bill is unnecessary—that is how he has put it—he has unnecessarily put that construction on the Bill'. If he puts the right construction, then probably he shall have to frame the Bill as the Honourable Member desires. Therefore, I submit that

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that objection of his also goes. Sir, on page 285 in Chitty's Statute—Parliamentary Procedure—it is stated:

"In case of any civil or criminal proceeding hereinafter to be commenced or prosecuted for or on account or in respect of the publication of any copy of such report, paper, votes or proceedings, it shall be lawful for the defendant or defendants at any stage of the proceedings to lay before the court or judge such report, paper, votes, or proceedings, and such copy with an affidavit verifying such report, paper, votes, or proceedings, and the correctness of such copy and the court or judge shall immediately stay such civil or criminal proceeding, and the same, and every writ or process issued therein, shall be and shall be deemed and taken to be finally put an end to, determined, and superseded by virtue of this act."

Then again, the second part is this with regard to the extracts:

"It shall be lawful for any civil or criminal proceedings to be commenced or prosecuted for printing any extract from or abstract of such report, paper, votes or proceedings to give in evidence under the general issue such report, paper, votes or proceedings and to show that such extract or abstract was published *bona fide* and without malice and if such shall be the opinion of the jury a verdict of not guilty will be entered for the defendant or defendants."

Thus I have shown that publication of full and free and fair proceedings even according to parliamentary Acts is not punishable. I have also shown that anything that is done without malice and *bona fide* in good faith, that is also protected. Therefore why should not this Bill be accepted? The point is this. It is all right that the opinion of the Honourable the Law Member will be acceptable to any Court if he advocates as the Advocate-General and comes forward to say that it is no offence at all. But how many Advocate Generals do that, in practice, may I ask? Therefore protection is necessary. Elucidation of the whole question is necessary from the privilege point of view and also from the legal penal code point of view, and it should be made clear how far the press has got privilege to publish. I have shown that this Bill is not unnecessary. That the Bill is not wrongly framed; that the Bill wants only protection for fuller and fairer reports to be published, if there are any extracts or any portions which are defamatory and not made in good faith or out of malice they will not be protected. Therefore I submit that the Bill is a necessary one and I think it is a Bill which should have gone to the Select Committee to be considered there by the Honourable Members, as I find that the Members who are proposed on this Committee most of them are lawyers and they will certainly understand the whole question, consider the law and then come to a conclusion as to what is the privilege and what is no privilege with regard to the publication of these reports.

Mr. Ananga Mohan Dam (Surma Valley *cum* Shillong: Non-Muhammadian):

I really cannot understand why the Honourable the Law Member opposes the move on the part of our Honourable friend Mr. Kazmi. There is no country in the world which has not the freedom of having the speeches delivered in Parliament published in papers as Mr. Kazmi has shown to us. Sir, it seems that the Honourable the Law Member is thinking in terms of nineteenth century legislation. It was in that legislation that trade unions were not allowed. People were not allowed to combine and speak of their grievances. I say the same thing is being repeated by the Honourable the Law Member in this twentieth century. Everybody wants freedom of speech and association, and for freedom of speech the United States of America have sent their editors on tour round the world to see which will be the best way to publish news for the convenience of the people. At the present time everyone wants news to be published and all the right-thinking men of the world are thinking out the best way of publishing the news from one part of the world to the other.

This Bill here is concerned with the speeches delivered in this Parliament of India. Here we voice the grievances of the people, the troubles of the people and those things which concern the people and their lives. Suppose we speak of raising their standard of life and comfort and modifying and amending the laws which stand against them. We want that the people should know our activity. If this fair publicity is to be checked and prohibited, then what remains of this Parliament of India in the direction of educating the electorate? Mr. Kazmi has shown that this is not even against the Government of India

Act. Section 67 of the Government of India Act provides that no person shall be liable to any proceedings in any court by reason of speech or vote in either Chamber or by reason of anything contained in any official report of the proceedings of that Chamber. These official reports are available to any citizen at reasonable prices. This is a privilege given to us by the Government of India Act. If the Government of India Act says that no person shall be liable to any proceedings for speeches delivered in this Assembly Chamber, why should the Government stand and plead for a case that these things cannot be published outside the House? I do not think that in this twentieth century the Honourable the Law Member ought to have stood up and told us that this is the thing that Government wants for the protection of the rights of the citizens of India. But we are living in days of topsy-turvydom. Things that we think right are not thought right by the Government of India. Things we think necessary for the freedom of the people are not thought as such by the Government of India. Therefore, the Honourable the Law Member of the Government of India stands in the Parliament of India and says something should be done to curtail the powers and privileges of the Assembly Members and the rights of the people to have an access to the proceedings of this Assembly.

The Honourable Sir Asoka Roy: I never said anything of the kind.

Mr. Ananga Mohan Dam: I did not mean that. I expected that the Honourable the Law Member of the Government of India ought to have given us what Mr. Kazmi is now pleading for. These books are accessible to the public. What is the harm if the same thing is published in the journals and weeklies and dailies and people come to learn what is happening. Why should not the debates be reported fully in those papers?

Reference has been made by my Honourable friend Mr. Kazmi to the case of Mr. Krishna Kant Malaviya. That was a case which really makes us think twice or thrice whether the methods followed by the Government of India are right. We want that all these obstacles which stand in the way of our right of freedom of speech should be removed from the statute book and an enactment should be made which will help this freedom of the people.

Sir, in England they have got the Bill of Rights. In Ireland also they have similar legislation. In countries like Australia and Canada there are such measures which enable the speeches to be published. I do not understand why the Government of India should oppose both sending this Bill for circulation as well as sending it to the Select Committee, where all these considerations, the pros and cons, will be debated by the Members in order to come to a right conclusion. As laymen we must remember that the technicalities of the law should not stand in our path of progress. The fact must be clear to us that law is made for man and man is not made for law. (*The Honourable Sir Sultan Ahmed:* "Hear, hear"). I am very glad that Honourable the Leader of the House is supporting me.

Mr. Sri Prakasa: It is not good to be supported by him.

Mr. Ananga Mohan Dam: We must welcome support from whatever quarter it may come. Therefore I say that this Bill by Mr. Kazmi should go to the Select Committee, where the lawyers may consider the pros and cons and give us the right lead.

Another point of which I am reminded by my Honourable friend over there is that we are getting dominion status very soon. So the advantages and privileges which are enjoyed by other dominions should be enjoyed by my country. If Government say that there is already dominion status in action in India, why should they oppose this law being enacted? They may then say to the Americans and other people that India has got a status which is equal to theirs. My Honourable friend, the Member for Information and Broadcasting, will not be required to give them any false news. He will be able to give them the right news, that this privilege which they enjoy is also enjoyed by Indians. Therefore it will be good from all points of view to allow this Bill to go to the Select Committee, where all points may be thrashed out and the

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right lead may be given to the people in regard to the publication of the proceedings of this Parliament of India. With these few words I support the motion.

Sardar Mangal Singh (East Punjab: Sikh): Sir, the issue before the House is quite simple, that the speeches made in this House should be allowed to be published outside for the information of our constituents, so that they may know what we are doing here. I do not wish to go into the legal subtleties, although there are big books lying before me, but I wish to put before the House the common sense point of view.

The Honourable the Law Member is generally very quiet and appears to be a goody goody gentleman but where his subtlety comes in, he is very mischievous. On this simple Bill he says that it is unnecessary and he reinforces his arguments by his great legal knowledge. I wish to point out that so long as you, Sir, are in the Chair, there is no danger that you would allow any Member to say anything irrelevant or anything unparliamentary and therefore the Honourable the Law Member should have no worry that any Member will be allowed to say things which are not desirable.

My simple difficulty is that the debates in this House are published in English. Most of my voters do not understand English. I want to tell them in their own language what I am saying here in this House. Why should the Law Member prevent me or, if I do so, haul me up? He is shaking his head but I want to get this assurance that what I say in this House, I am entitled to tell my voters in my own language. I want to get that right, the right to tell my voters in their own language what speeches I am making in this House. They do not understand English and they will not be able to understand these debates. I want to know whether I am allowed to tell them or not. I can now publish my speech along with the proceedings of the whole day. If I reproduce the debate of the whole day, including my speech. I have very little danger of incurring the displeasure of the Honourable the Law Member but if I select my own speech, I am liable to be prosecuted. In these days of paper scarcity why should not the Government allow us to pick out our own relevant speeches and put them before our constituents? There should be no difficulty. What is the motion before the House? Not that this Bill should be passed immediately. My Honourable friend Mr. Kazmi has been very reasonable. He has come forward with a proposal that this simple Bill which should have been passed within ten minutes is to be referred to a Select Committee. We are prepared to sit and discuss across the table. We will go there with open minds and if the Honourable the Law Member with all his ability and with all his legal knowledge is not able to convince us across the table and is not able to show that this Bill is really unnecessary, as he said this morning, then he should be prepared to accept this motion. Let the Select Committee sit, discuss the pros and cons of the Bill and then come to a decision. I wish to ask the Honourable Law Member why is he afraid of this simple proposition? He should welcome it, but if his case is so weak, and if he stands on very rickety legs, then of course he should admit the case of the Opposition and agree to the passage of the Bill in the next Session. Sir, with these words I commend the motion to the House.

Mr. Sri Prakasa: Sir, in supporting Mr. Kazmi's motion, I must at the very outset state that I cannot for one moment agree with the description that it has pleased the Honourable Law Member to give it, namely, that it is an absolutely hopeless Bill. To describe the Bill as absolutely hopeless would be as wrong as to describe the Honourable Law Member himself, as absolutely hopeless. I personally think that the Bill is full of hope: at least it gives me the hope that what is said and done in this House will, if the Bill were passed, have some chance of publicity in the outside world.

Sir, I have listened with all care, respect, and attention, to the learned, lengthy and ponderous speech of the Honourable Law Member which he delivered in two parts. I have also heard with great admiration the three supplementary speeches delivered by my Honourable friend. Mr. Avinashilingam

Chettiar was on his legs when the Honourable the Law Member interrupted; and the House must have marked his impatience when my Honourable friend here would not give in. It was not my Honourable friend Mr. Avinashilingam Chettiar who asked the Honourable Law Member to stop as he wanted to continue. It was the Law Member who said, 'Wait a minute, let me finish'.

Sir, I am not, as the House very well knows, a very learned man in any sense. I am a simple man of the street, and I want to bring before this House the attitude of the man in the street which I believe is very important, because I think the man in the street is the most important individual. The difficulty that a person like me faces is this. These learned lawyers are full of subtleties and bring fat volumes in support of their arguments. But above all they are weighed down by the precedents of a country that is far away from us, and the conditions of which are very different to ours. I do not see any reason why we should be worried about British precedents, and why we cannot have precedents of our own. I believe that our Legislature should set its own precedents, and not quote precedents from other lands. I personally am always against quotations from books to support my arguments. I think we ought always to be able to bring a fresh mind to bear on all the problems that face us and not believe that those who have gone before us or live in other lands have said or say the last word on any subject, or that our ancestors were and foreigners are necessarily wiser than ourselves.

The problem is not so much of law as of principle. I should like to know why we in the House are privileged to speak without any danger of being hauled into a law court. There must be some reason for this privilege being given to the Members of the Legislature. This privilege is obviously given so that a Member of the Legislature may be able to speak his mind completely, frankly, freely, without the sword of Damocles always hanging over his head and his being in constant danger of a possible prosecution. Nobody can possibly speak with candour if somebody is always pointing a pistol at him, and that is why in the Legislatures of the world, the privilege is given to the members to speak out their minds. And if that privilege is allowed in this House, why should not that privilege be extended to us outside the House as well.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member will continue his speech after Lunch.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Abdul Qaiyum (One of the Panel of Chairmen) in the Chair.

Mr. Sri Prakasa: Sir, I was saying, when the House broke up for lunch, that the reason for giving us in the House the privilege to say practically anything we like, is due to the anxiety of all concerned that members of a legislature should be allowed to speak without fear or favour; and I was asking as to why this privilege should only be confined to the precincts of the House and should not be extended further, and why speeches delivered here could not be reported outside. It is thus a matter of principle and I think it is right that we should establish this principle. As my friend, Sardar Mangal Singh, was saying, it is the right of our constituencies to know what their representatives were doing in this House; and if the privilege of publishing the proceedings of the House is not extended to the press, our constituencies are bound to be ignorant of our doings here. As you know, Sir, many of us represent large general constituencies, and it is not always easy for members to reach all parts of their vast constituencies all the time. The only way in which they can reach their constituents is through the press. If the press is barred from publishing what they say here, then the constituencies have really no chance of knowing what their Members are doing.

I am sure the Honourable Law Member as well as other Members of the

[Mr. Sri Prakasa]

House in the course of their vast and varied studies, must have come across a rather interesting and entertaining book called the "Pageant of Parliament" by Michael MacDonaugh. That book is far more interesting than May's Parliamentary Practice or even Anson's Law of the Constitution. There the author says that many, members of the House of Commons prepare laboriously and painfully, brilliant speeches which they hope to deliver in the House of Commons; and their sweethearts and members of their families come into the galleries in the hope of hearing them speak. But it not unoften happens that the Speaker turns his blind eye on them, and they don't get the chance to speak, with the result that the elaborately prepared speeches have to be taken as delivered. Now, here, we are not out only to please our sweethearts, if there should be any, or members of our families who might come in anticipation of hearing speeches from those they love; we have also to think of our constituents, and though the member of Parliament in England may be satisfied with an audience of a very restricted description, here we have to reach a larger audience. That is one great difference between England and our own country and therefore I think other laws and rules and conventions should apply to us, than those that apply there.

Then, it seemed to me—and the Law Member will correct me if I am wrong—that the Law Member was stressing the point of 'libel' a little too much; and if I am not wrong, he said that libel, if published in good faith, could be excused but nothing else. My feeling is that if libel is published outside it may just as well be punished I do not mind. But what I do mind is the restriction placed on the publication of what may be called political speeches. My Honourable friend the Law Member did not have very much to do with public life outside this House; but he should have, as Law Member, some sympathy with us, with whom he now comes in contact and who are nothing if not politicians. Now, a politician not only loves to hear himself speak but he also loves to be heard, and if the Honourable Law Member is going to deny us the privilege of getting ourselves heard by a larger audience, which we in our innocence imagine is always anxious to hear us, then he is putting us in difficulties; and I think I have a right to claim from him this privilege of being heard. We are not like children who should only be seen and not heard. We want to be heard.

As things are, political speeches are strictly barred out. We cannot deliver them outside, specially as things are today; the only place where we can say what we want is this House, and therefore when we say something in this House, we wish that it could be reported outside. It is essential that our privilege should extend outside the House also and what we say here may be heard and read by the world at large. Here, we have to expose many of the doings of the Government; we cannot do so outside. As things are today if you complain of bad grain being sold at a ration shop, you are likely to be hauled up by Government under the D.I.R.; if you say that telephones are being refused to us because we have not paid so much subscription to the war fund, you are likely to be hauled up; but you can say all these things here. Even the most scrupulous, meticulous, careful President will not prevent you from saying such things in this House, under the terms of the Standing Orders quoted by my Honourable friend behind. But the fact is that you cannot say these things outside—we all know that they cannot be—and if you say them only in this House, then nobody hears us. Therefore the Law Member should certainly see his way to extending this privilege. He must realise the enormity of the offence that he is committing by preventing our speeches from being published outside.

We are not speaking here only for the few persons who sit in this House. We are not anxious to have the speeches printed only in the so-called Hansard—the little books which print the proceedings of the Assembly. We want those speeches to go further. How many people read the proceedings as they are published officially? The Honourable Law Member can say: "If you are very

anxious to publish your speeches, why not buy the requisite number of copies from the Assembly Office and distribute them among your constituents?" His great predecessor Sir Nripendra Sircar actually did recommend that procedure, saying that will also bring so many extra five annas into the coffers of the Government. But when I feel that speeches could be available to my constituents for an anna a copy, along with a lot of other news, in a newspaper, why should I be made to pay five annas per copy to get my speeches read through the officially published proceedings of the House?

And then, Sir, I should like to ask in all seriousness what exactly is the principle behind the right of Government to print all these speeches itself and prevent others from printing it. When the speeches can be printed in one Press without the Heavens falling, surely they can be printed in other presses also. I can understand the Government saying that certain speeches to which it objects cannot be printed even in its official publications. There would be some logic, justification and reason in that; but when it can be printed in the Government Press, when it can be available in the Library of the House, when it is all printed verbatim in the proceedings of the House, why is it that we are prevented from publishing them outside. I should like to understand the exact reason for this. We in this House expose the misdeeds of Government which we cannot do outside. There the all powerful District Magistrates swoop down upon us. There we are unable to do anything. Here if we complain, members of Government ask us to give specific instances. We can give specific instances; and if the specific instances are published outside, then they can have some good effect. Otherwise giving of specific instances and the apologia of the Members opposite have no value.

Sir, it is said that things should be done in good faith. The Honourable the Law Member laboured the point of good faith a little too much; but the fact is that when things are done in bad faith, actual deliberate bad faith, that are in favour of Government, there is no objection to the publication of that. For instance, let me recall to the mind of such Members as were in this House at that time, the debate on Mr. B. Das' private Bill for the abrogation of the Criminal Law Amendment Act. The then Law Member, Sir N. N. Sircar delivered a six hour oration against that Bill, though he was very impatient when other Members even took half an hour or 45 minutes in support of that Bill. The Anglo-Indian papers in definite bad faith, I have no doubt, printed large extracts of that speech in order to damn the freedom movement of the land. The Government, because it suited it, would not take any action against them; but when Pandit Krishna Kant Malaviya printed his speech in his paper, in perfect good faith, action was taken immediately because of which it has been necessary for my friend Mr. Kazmi to bring this Bill before the House.

Looking at the problem from any standpoint, it seems that the privilege given to this Assembly must be extended if we really seriously desire that there should be political education of the people.

Amazing orders have been passed to prevent newspapers from publishing perfectly innocuous reports. For instance, the Punjab Government notified that the proceedings in the *habeas corpus* application of Mr. Jai Prakash Narain are not to be published and that no paper is even to publish the fact that there is a gazette notification to that effect. Formerly it was possible for my friend Mr. Neogy to write a book or a report on somethings that were happening in 1930, which book or report was promptly banned by the Government of Bengal. At that time he was wise enough to read out large extracts of that book in the course of his speech in the Legislative Assembly and those extracts were published without any risk in the newspapers of the time. So, Mr. Neogy was able to fulfil the purpose for which he wrote the original report. But now that is not possible and other laws and other precedents have come into operation and the speeches delivered by us or even the questions asked by us cannot be published outside without risk to the newspapers concerned.

[Mr. Sri Prakasa.]

I, therefore, think that the time has come for some action to be taken in this behalf and we must congratulate Mr. Kazmi for bringing forward this very useful and very hopeful measure, whatever the description the Honourable the Law Member may choose to give to this venture. If my Honourable friend the Law Member is really very serious and sincere on this object and if he really thinks that the law as it is is not satisfactory—as he seemed to imply in his speech—and that there should be a change in that law along lines which he indicated in his speech or speeches, then it is up to him and to his Government to bring forward the necessary and relevant amendments to the Act as it stands. If Government would do that, it would, I think, earn the gratitude of most of us and I am sure the Honourable the Law Member would be able to make his name immortal for having given a privilege to the House which it did not possess before. I do hope that this matter will receive the very serious consideration of my Honourable friend and instead of opposing this measure he will support it; and instead of damning it he will welcome it.

Some Honourable Members: The question be now put.

Mr. Chairman (Mr. Abdul Qaiyum): The question is:

“That the question be now put.”

The motion was adopted.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural):

Sir, I do not want to take up much of the time of the House because both sides have had their full say. In regard to what the Law Member said about the drafting of the Bill, I need only say that the drafting is defective. But there is one thing which I want to point out particularly to the Law Member. He said that the only privilege that is enjoyed by Members of Parliament in the publication of their speeches relates to cases of libel and slander and to no other case. With all respect to his learning, I want to differ from him on that point. I have been trying to look at the preamble of the Act of 1840. But unfortunately the thing is just not here. If one looks at the preamble one will find that the Act does not relate only to libel and slander but to all civil and criminal actions. Now, it is different. When we look up the Empire Digest, when we look up the Halsbury's Laws of England, we find that this thing is mentioned only under the head libel and slander. I have not been able to find out any cases. It appears that mostly the complaint of the people of England referred to libel and slander and so far as the Government is concerned, the question of executive action for throttling the people for political speeches did not exist in England. What I mean is this. To consider or to think that the present law in England and the present protection in England is only to be confined to libel and slander does not appear to me to be correct so far as the Statute of 1840 is concerned. We, here, on account of the political conditions in this country are entitled to have a law on the same basis and if we put it under the Indian Penal Code, its place would be an appropriate one. The Honourable the Law Member referred to the Press Emergency Act. The mere inclusion of it in the Panel Code will not repeal the provisions of the Press Emergency Act. What I maintain is this. That so far as this country is concerned the provisions of the Indian Penal Code and the Criminal Procedure Code have been nullified by the ordinances of the Viceroy. We know all well that in spite of its inclusion in the Indian Penal Code, this Press Emergency legislation will be there and in the name of war, in the name of emergency, all sorts of ordinances will be enforced so long as the present conditions continue. What we want is this, that at least at a time when there is no such excuse for executive action, when such laws can be even temporarily suspended, at that time at least Members of this House may have this privilege of publishing their speeches. I may at this stage also say that I am prepared to accept the motion for circulation of the Bill for eliciting public opinion. I do not press my motion for referring the Bill to the Select Committee.

Mr. Chairman (Mr. Abdul Qaiyum): The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th September, 1945."

The motion was adopted.

THE KAZI'S BILL.

Qazi Muhammad Ahmad Kasmi (Meerut Division: Muhammadan Rural)

Sir, I move:

"That the Bill to provide for the appointment of persons to the office of Kazi and for performing and keeping a record of marriages amongst Muslims be referred to a Select Committee consisting of the Honourable Sir Asoka Roy, Sir George Spence, Mr. Muhammad Nauman, Maulvi Muhammad Abdul Ghani, Maulvi Syed Murtuza Sahib Bahadur, Maulana Zafar Ali Khan, Mr. Abdul Qaiyum, Khan Bahadur Sheikh Habibur Rahman, Mr. Hoosainbhoy A. Lalljee, Kunwer Hajee Ismaiel Alikhan, Mr. Govind V. Deshmukh and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, in moving this Bill, I am prompted by the standing and crying necessity of the Muslim community. So far as I understand it, the position is that the Government are prepared to accept the motion if my Honourable friends of the Muslim League Party are prepared to support me. The Government in that case might concede for reference of the Bill to the Select Committee. That was what I understood to be the position till yesterday, unless something has happened thereafter. Now, I will address myself both to the Government and to the Muslim League Party.

Mr. Chairman (Mr. Abdul Qaiyum): And the whole House as well.

Qazi Muhammad Ahmad Kasmi: Yes, Sir, and the whole House as well, and I will try to persuade them to appreciate my point of view which I have got to place before them. So far as the other Parties are concerned, probably they have not made up their mind and I think I can appeal to them also just to lend me their ears for the purpose of this motion. As I was saying, Sir, this Bill refers to the institution of Kazis, a very old institution so far as the Muslims are concerned. The Kazi is a socio-religious functionary, he not only used to act as a judge but also as a repository of all laws and usages and also as a registrar of records, to be the guardian of minors, lunatics and also of persons who were not traceable. He used to do many other duties, such as to decide divorce cases, to preside at and perform certain ceremonies such as marriage ceremony and used to conduct the Juma and Id prayers. He was also necessary for certain socio-religious matters such as dissolution of marriages. Now, Sir, we find that after the advent of the British rule, that a good deal of the functions were taken away from the Kazis but yet the functions that were necessary from a religious point of view still remained with the Kazis. In Regulation XXXIX of 1793 the preamble provides:

"The Kazis are stationed at cities of Patna, Dacca and Morshidabad and the principal towns and the purganahs for the purpose of preparing and attesting the deeds of transfer and other law papers celebrating marriages and performing such religious duties or ceremonies prescribed by the Muhammadan law, as hitherto have been discharged by them under the British Government and also for superintending the sale of the distrained properties and paying charitable and other pensions and allowances under Regulations XVII and XXIV of 1785. The nature of the above-mentioned duties renders it necessary that persons of character and duly qualified with respect to legal knowledge should be appointed to these offices and encourage them to discharge their trusts with diligence and fidelity, they should not be liable to removal unless proved to be incapable or guilty of misconduct to the satisfaction of the Governor General in Council."

So after the advent of the East India Company their position was recognised and they continued to perform those duties up till 1864, when this Government brought in an Act in which they said that they could not continue to appoint these Kazis for this purpose, and they left it to the Mussalmans themselves to appoint persons who were capable of acting as Kazis and who were in a position to administer the religious functions of the Mussalmans so long as they were consistent with the Schedule. From 1864 the Mussalmans felt great difficulty because according to their ideas a person can only be qualified as a Kazi if he were appointed by the State and

[Qazi Muhammad Abuad Kazmi]

on account of the absence of Kazis on the gradual deaths of Kazis who were appointed by the State prior to 1864 the handicap accentuated. The Mussalmans were at a disadvantage and there was regular agitation in Madras; and ultimately the late Sir Syed Ahmad Khan succeeded in getting an Act passed in 1880—XII of 1880—in the Legislative Council of that time in which they recognised that a Kazi would be appointed by Government on petition by the Mussalman community of a city. At the same time it was provided that he shall have no judicial or any other power. But there was one other flaw in that and that was that it would not prevent any other Kazi or any other person from solemnising marriages or carrying on the duties of a Kazi. As a matter of fact when there was no such restriction it was only to be expected, as it actually happened later on, that these persons gradually lost power and influence. Other persons came into the field and the whole organised society of Mussalmans became disorganised. The present Bill was introduced with this intention that the State may enforce the very principles that have already been accepted by the enactment of Act XII of 1880; and I see little reason for Government to oppose this, because it is only intended to supplement the provisions of that Act. In that Bill it was enacted that Mussalmans may apply to Government for the appointment of a Kazi. But the wording is so indefinite that it is very difficult to say what the word "Mussalman" means; and instead of leaving it to the Mussalmans in general I have in this Bill tried to provide a machinery by which proper persons would be elected,—that being the elected representatives of the Muslim community. I am even at this stage prepared to accept any other kind of machinery by which Kazis may be appointed because the simple object is that the Muslim community as a whole will have the power of recommending to Government, and Government, must be in a position to know that he is a person who has got the confidence of the Mussalman community.

I will just lay before the House some of the criticisms about this machinery. Some people think that because I have provided a district committee to nominate a Kazi consisting of elected representatives of two Muslim Vakeels, two Ulemas two Muslim members of the Municipal and District Boards, and so on, this committee shall have a political complexion and the result will be that political ideas will prevail with the people in the appointment of Kazis. I really fail to appreciate that criticism, because if the representatives of Vakeels and Ulemas—persons who know law and religion—are considered to be people with a political bias, what other persons can be found in the Muslim community who will be free from this political complexion. Every person living in this country will be found to have some political ideas or other, whether he be a Vakeel or a merchant or a religious man. How can you say that a Muslim who happens to have a political idea in his mind should not be elected Kazi for that particular district? If that is the view, I think you will say that only Government servants should be appointed members of the committee. But are Government servants free from political bias? Have they got no political notions whatever? Are they so blank as not to understand what is going on round about the world? I do not agree with that view. Whatever other bias Government servants may or may not have, they are certainly not free from political bias; they will be prepared always to support Government in all political matters. Can we therefore say they have no political bias? They are not free from it; and so I should like to know from the gentlemen who criticise the Bill on that ground as to what other committee can be constituted which will be to their satisfaction. And for this reason I made a very humble submission to the Muslim League Party namely you invent some machinery and I will substitute that for this, but I would like to hear if they have succeeded in making any machinery. You can make changes and amendments in it, you can increase the proportion of certain classes of people, but to make a committee in these days which would be absolutely free from political bias is an impossibility. So far as

this provision is concerned, there is no inconsistency between this Bill and the Act of 1880.

Next comes the functions of the Qazi. Sometime ago I introduced in this House, a Bill entitled 'Muslim Qazis Bill' and that Bill continued to appear at different times on the agenda of this House till today. But today I have not moved even for its continuation knowing full well the attitude of the Government and Muslim League party and finding that even this simple Bill is not to be considered by my Honourable friends. That Bill was intended really to remove the very long-standing grievance of Mussalmans, namely, that cases of dissolution of marriage should be tried only by a Muslim officer—not a Muslim officer because that does not comply with the provisions of the Shariat, but by a Muslim Qazi and I, in consultation with certain Ulemas, Ulemas of great fame like Maulana Ashraf Ali, Maulana Husain Ahmed and other persons of repute, tried to invent a machinery according to which this objection of Mussalmans that a decree for the dissolution of marriages can only be given by a Muslim Qazi, might be met. But so far as the position of the Government was concerned, their case was that they were not going to accept any independent tribunal for deciding cases, even of dissolution of marriage. I never understood the position of the Government on that matter because I know that for Christians, Anglo-Indians and even Europeans who happen to come to this place only by accident and who are not the permanent residents of this country, special matrimonial tribunals have been provided under the law? Only the other day, after I came to this Honourable House, an Act was passed under which special matrimonial courts were set up for Parsis. But so far as Mussalmans were concerned, the attitude of the Government was that they were not going to give this small right namely that cases of dissolution of marriage should be decided by a Qazi or even by a Muslim judge.

Sir, there was a provision in the Muslim Dissolution of Marriages Act, when it was introduced in this House, that cases will be decided by a Muslim judge. At that time it was at least my idea that Government may not be prepared to discriminate between judicial officers—whether there was a Hindu, or a Muslim or a Sikh—but if, for the purposes of marriage cases, we were to bring forward a Bill—providing that matters of this kind which do not affect other people will be decided by a person who is selected by the Muslim community themselves—it would have the support of Government, and it was with that view that I introduced that Bill. But, unfortunately, whatever may be my ideas, ever since the passing of the Dissolution of Marriage Act and its coming into force, I at least have always been loaded with correspondence from people asking me whether a decree passed under this Act can be considered to be a correct decree according to Muslim Law. There seems to be some difference of opinion amongst the Muslims on this point, but the majority of the Muslims consider that any decree that is passed by a non-Muslim court in the case of a dissolution of marriage is not a valid decree according to Muhammadan Law, and therefore the marriage is not dissolved, and the very purpose for which this Act was passed by this House was nullified on account of the absence of that provision. We could replace it by enacting the Muslim Qazis Act but unfortunately that was not to be done.

We had before us the aim that we shall be able to organize the Muslim community, rather we shall be able to meet the crying necessity of the Muslim community by having Muslim Law fully enforced so far as marriage and divorce cases are concerned, but we had to abandon that position, and I introduced another Bill which was only a part of the former Bill and which I understood that the Government may be prepared to consider favourably, because they said that the question of tribunal is a different one. Government said at that time 'we are not prepared to accept any independent tribunals, but so far as the question of marriages is concerned, we may be prepared to consider and accept it'. And it was in pursuance of that assurance that I introduced this Bill in this House.

[Qazi Muhammad Ahmad Kazmi]

After the introduction of this Bill, it was circulated for opinion. The Honourable Members must have copies though I am afraid they might not have been able to find time to go through those, and probably they do not even know as to what is written in those opinions. I do not mean to say that because nobody has looked into them, therefore it is necessary for me to read them all before this House. That is not my intention. But I want to assure the House—and I will make a very brief reference to the various opinions that we have received—that they all almost unanimously support the Bill.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Let us have the opinion of the Leader of the House.

Qazi Muhammad Ahmad Kazmi: His opinion will be given in the House itself—it is not published in these opinions—but I can place before you the opinion given by a countryman of the Leader of the House a person belonging to Bihar.

Sir, I want to give a short synopsis of the opinions that we have received. The opinions always begin with Panth Piploda

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): How many Qazis have they got?

Qazi Muhammad Ahmad Kazmi: I will just tell you. So far as my Bills are concerned, I can assure the House that I have found Panth Piploda to be the most helpful. Not only that, but they are so prompt that if you were to look at any copy of opinions, you will find that Panth Piploda takes the first place.

Mr. Sri Prakasa: Have you located it on the map?

Qazi Muhammad Ahmad Kazmi: The Chief Commissioner of Panth Piploda says: "I have no useful comments to make on the proposed legislation which appears to be desirable".

Next comes Baluchistan. I think Honourable Members will have no difficulty to find out that place on the map. Before dealing with the opinions I may just say a word regarding the reason of a little difference of opinion here and there. In this connection I would draw the attention of the House to the opinion of an official of Bombay, expressed at the time when this Act of 1884 was intended to be enacted. The Honourable Mr. Gibbs from Bombay is reported to have said that he might mention with regard to this Bill that the inconvenience of not having Kazis has been experienced on the Bombay side. In former years before Act XII of 1864 had been passed, there were Government Kazis appointed in all the principal places of Bombay and they were often of great use in settling small disputes which might otherwise have troubled the magistrates or the courts. He had never been able to make out why in that Act there was a clean sweep made of all Kazis in the country but it had done harm by leaving Muslims without any sort of head to whom they might refer their domestic difficulties and this want had been much felt and obliged them to take the law into their own hands and committing breaches of it. He was therefore glad to see that the present Bill was brought in. This was in 1880 when it was expected that the Bill of 1890 would be helpful in removing some of the handicaps that the Muslims were suffering from. Unfortunately that was not to be. What we find is that according to the old methods this system of Kazis continues in many places. At some places it has been disturbed: at other places it continues in its old condition and that has been one of the reasons of the differences so far as particular localities are concerned. What has happened is this: that now persons who are hereditary Kazis think that they have got the right of performing the duties of a Kazi though they have no qualification for it and they want to oppose any change of the kind because they think that if necessary qualifications are imposed they will go out.

The Honourable Sir Asoka Roy (Law Member): Are you a hereditary Kazi?

Qazi Muhammad Ahmad Kazmi: Now only in name:

As an example of this I would just refer the Honourable Members to the opinion of an officer from the United Provinces. His opinions are reported on page 50. This officer is the District Judge of Gonda. He says:

"There is a system obtaining in all the districts that certain families work as Kazis for reading Nikah. These families have their own jajmans. The Bill enforces a qualification for Kazis. Most of the Kazis who read Nikah do not possess those qualifications and they would very strongly oppose the Bill."

This is one of the grounds on which the District Judge of Gonda thought fit to record his opinion against this Bill.

Similar is the case of an opinion from Madras. You will find it on page 55. They have supported the principle but they have said: Abhiramam Muslims oppose Kazis Bill as it encroaches Jammats Rights. The question is whether an opposition of this kind is to be considered as any opposition at all.

Before considering the opinions we must remember one thing more in this connection. Before the Kazi Act had been enacted in 1880, the Bengal Muslims felt the necessity of the Kazis very much and they made an Act in 1876. It was a comprehensive Act.

The Honourable Sir Asoka Roy: Bengal is opposed to your Bill now.

Qazi Muhammad Ahmad Kazmi: I will just request the Honourable Member to appreciate the nature of the opposition which they have advanced. What they say is this: That we have already got a very comprehensive law in respect of registration and record of marriages and the present Bill does not deal with all those aspects. Therefore we think that it will not be satisfactory for this province.

We as the Central Legislature are alone in a position to draft a model Act, an Act which according to the necessities of the Muslims shall have the model provisions which are necessary for these particular needs, and what I say is this: that the Bengal Act, though it was enacted as early as 1876 does not really meet the difficulties of the Mussalmans and out of the opinions that have been received from Bengal I do not find any real opposition from anyone of them. As a matter of fact all the opinions from Bengal support the principle of the Bill. They only complain that sufficiently exhaustive provisions are not in this Bill. And then again they say that even though Act XII of 1880 is in force in Bengal, this Act of 1876 in no way contravenes the provisions of the Act of 1880. But what is there? Does it really meet the needs of the Mussalmans in so far as a person of the name of Kazi is appointed by the Government? It does not. However the Bengal Act is helpful in so far that its actual enforcement in Bengal would remove many of the doubts that may arise so far as Muslims in other Provinces are concerned. There is one general notion that any machinery that is invented for the purpose of carrying on this system of kazis will involve expenses which will be beyond the capacity of the Muslims. I assure the House that in Bengal the Department of kazis does not get any help or subsidy from the state. It is the parties to a particular marriage or dissolution who contribute to the records. The progress in Bengal so far as that particular thing is concerned has been remarkable. In the opinion of Khan Bahadur S. M. Sualsheen on page 89 he finds that in the first years of the Act 1876 the record of marriages used to be from 2,000 to 3,000 annually. In 1913-14 it was 3,500 and from that it rose in 1939 to 48,940 and in 1940 it was 98,308. This means that because they adopted a certain system of recording marriages it has gradually come into force. But the main difficulties so far as the Muslims in Bengal are concerned is that under the Bengal Act it is the registrar of marriages, who has got no religious sanctity behind him, he has only to prepare and keep a record the marriages. He has not to perform the nikkah, and the result is that it always involves some inconvenience to the parties to get the marriage recorded. I may just give an instance. Under the Bengal Act after the performance of nikkah within a period of thirty days the parties or the couple along with some witnesses may apply to the Registrar of Marriages to get their nikkah registered. Is this not an additional burden and additional trouble? What we want to provide is that the very person who performs the nikkah shall also be supplied with the register and he will make the entry then and there: the House can very

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well understand the difference between a record made at the time of the marriage and a record made 30 days after. So it does not really meet the necessities of the Mussalman.

The second point is that there is no compulsion whatsoever in the Bengal Act. Some sort of compulsion is necessary for enforcing a practice. Some of the opinions which are opposed have their opposition on this principle of compulsion. I would just place before this House the kind of compulsion which we have provided in this Bill. We have provided that any person who has not got his nikkah performed by a kazi and who never cares to get it recorded within a period of four months, whenever he goes to court and bases reliance on a nikkah of this kind which has never been recorded, he will have to pay a penalty of Rs. 15. This penalty of Rs. 15 has been considered by some of the opinions as too heavy and by others as too light. Of course it is for the House to determine whether it is too heavy or too light. But the other main objection against this is that this is un-Islamic as it provides compulsion. One of the members from Bihar while expressing his opinion has gone into the simplicity of the Muslim Law and has said that all equality and simplicity of the Muslim law will come to an end as soon as it becomes necessary to get the marriages recorded. I may refer the Honourable Member to the opinion on page 27, the opinion of Khan Sahib Quadir Buksh Khan. That is perhaps the most expressive opinion against the Bill. He says:

"I oppose the Bill on the following grounds:

It is wholly unnecessary to have a Bill like this: legislation on any point should be useful and should cater for the needs of the society, this Bill does neither.

It is opposed to Islamic law and injunctions without being fruitful (I mean of any of the legislators would have taken the responsibility to frame a bill on a law of Mahjul it might have been useful.)

Islam and Islamic ideals and principles are simple, it is never complex, hence the marriages in Islam can be contracted in a simple way—any man of age can perform the qazaaya and can bind two persons in marriage, if this Bill is passed the very essence of the simplicity would go away.

This Bill conflicts with the basic ideal of simplicity, and equality which Islam teaches. If a qazi is required for all marriages, where is the simplicity of Islamic ideals that all persons who are Muslims are equal and can perform all the acts of religion without any distinction of caste and creed.

This Bill won't be of any value or use even if passed into Act it is bound to fail.

Compulsion in matter of marriages is never desirable one must be free and feel free regarding marriages."

This is not found in the Muslim law itself. According to Holy Quran it is always advisable that when persons enter into any contract, it should be reduced to writing. If writing a marriage contract is compulsion and if all compulsion is removed no contract can ever be effected. Other persons with some legal knowledge have objected to this provision on the ground that it is against the provisions of the Indian Evidence Act.

Mr. Sri Prakasa. *Jab do Jane hon razi kyā karega kazi.*

Qazi Muhammad Ahmad Kazmi: You can say that, but when another person takes away your wife and you have the necessity of filing a suit, then this saying will not be of much help to you, and that is what actually happens. Although for the time being parties are *razi* and no kazi is required, when time passes away and you find *nārazi* the whole game is spoiled. The woman is with some other person, and you will not be able to enjoy a married life.

Some persons oppose the provision of penalty on the ground that it would be inconsistent with the provision of the Evidence Act. I think the gentlemen who oppose this Bill on that ground have not considered the provisions of the Indian Stamp Act. This Act provides that an unstamped or a deficiently stamped paper cannot be taken into evidence unless a penalty of ten times the amount of deficiency is paid. If that provision of the Stamp Act does not conflict with the principles of the Indian Evidence Act; how is this provision going to affect it. So these are the only objections, which I maintain are absolutely untenable.

I was dealing with Bengal, and what I was saying is this: that so far as Bengal Muslims are concerned, none of them say that there is no necessity of recording marriages or of appointing Kazis. What they say is this; that the Bill must be an elaborate one in which there should be provisions not only for the record of marriages, but also for the record of divorces. If in the Select Committee we have the desire or the inclination to provide for these we can do so, if we sit together and come to an understanding in that respect we can incorporate it in the Bill. The present Bill does not in any way negative that idea.

Now, Sir, in the whole of India it is only in Bengal that we have got this Act: in other places we have not got anything but the remnants of the old Kazi system remaining in some form or other.

There are some opinions from the Punjab. I want to make the position clear. When I say that opinions from Bengal and the Punjab are against, I do not mean to say that the majority is against. As a matter of fact, the majority of opinions from every province is in favour of the Bill. I will give the figures after a short time, but at present I only say that I am taking up the position of the people who are opposed to the Bill, in order to make it clear what their point of view is. Now whatever little opposition there appears in the statements of some persons, that is on two grounds. One is that in the Punjab Municipal Board and District Board Acts, there is provision for registration of marriages, that is being done by the District and Municipal Boards, and that therefore there is no need for a separate law.

Now, I have looked into the Municipal and District Board Acts of the Punjab. I may just mention I had some difficulty in finding out the provisions on which they have so much relied. In the Punjab District Boards Act I find that under the Duties of District and Local Boards, Section 20(b), out of about 15 to 18 items, one item—(n)—is to the effect—Registration of births marriages and deaths. That is one of the duties of the District Boards. That is the only provision in the Punjab District Board Act. Now, so far as the Municipalities Act is concerned, I have had great difficulty in finding out the provision. Ultimately I succeeded in finding it out—not under the powers of the Boards but in the powers of making bye-laws. Section 188 of the Punjab Municipal Act gives the power to make bye-laws, sub-section (c) provides that the Municipal Committee has got the power to provide for the proper registration of births, marriages and deaths, etc., etc. That is so far as the Punjab is concerned.

In U. P. I thought that there might be some similar provision in the Municipalities and District Boards Acts, but I find that section 7 of the U. P. Municipalities Act—clause (a)—only gives powers to the Boards to provide for registering births and deaths, and there is no question of marriage. That is so far as U. P. is concerned.

So, so far as provisions of law are concerned we do not find even this small provision for registration of marriages.

One thing has to be considered—how far it will be possible for municipalities to keep registers of the type which are really necessary for the purposes of Muslim marriage. A Muslim marriage contemplates dower,—debt, etc. A Muslim marriage is a contract, a contract which can be revoked also. There is considerable difference on this point between Hindus and Muslims so far as relationship of marriage is concerned, unless the Hindu Law is also evolved or becomes what is contemplated by the Law Committee. But just as it stands today, once marriage it is always a marriage, and there is no such complication so far as actual relationship of wife and husband is concerned. So far as Muslims are concerned another important item that often comes into prominence is the dower debt. In cases of dispute between husband and wife, the question of dower comes in; where the husband is indebted, the question of dower debt comes in; and in many other cases it comes in, directly or indirectly. Now the question is, whether reliable records of marriages, like the records of births and deaths, can be maintained by district and municipal

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The present system of keeping records is that the sweeper of the house goes and makes a report of birth or death: it is the liability of the master of the house himself to do so, but in practice it is sufficient if the sweeper goes and gives that information. If a more cumbersome machinery is to be provided for such registration, then the registration will become impossible without employing more staff which must be paid for and probably the municipal and district boards will not be in a position to provide that staff. The system of kazis is a self-sufficient system, which pays its own way. I have mentioned the case of Bengal and if the Honourable Leader of the House and the Law Member consider that position, they will see that no subsidy is required. This is the only possible system among the Muslims which can be relied on in the matter of marriages and divorce.

I have received certain criticisms of this Act on the basis that an all India act of this type is not required—that it should be left to provincial legislation. I have given the whole history and pointed out in detail that as a matter of fact there is no custom to the contrary to be found in any province. If we agree that the record of marriages is to be maintained in a particular way, then I see no reason as to why that record should differ from place to place and province to province? In these days when in spite of diversity of Hindu law, when actually different principles are to be found in different provinces—in some provinces the female gets a share and in others she does not, in some she gets absolute rights over the property of her husband and in other provinces she does not; in some provinces she can get a gift from her husband in her absolute right and it becomes her stridhan and in other provinces it does not—the laws are different in the principles and details and still an attempt is being made today to codify the law and enact a law for all Hindus in India. So, the Muslims situated as they are, consistent with the claims that they are making and with the simplicity and equality which is to be found in different provinces,—is the Central Legislature incapable of devising machinery for the purpose, and shall it have to be left to the provinces? Again it was all India agitation that brought into force Act XII of 1880. It is the same agitation that Muslims are now making. Has that Act not been considered for the whole of India? There is another option. If you want to avoid that difficulty of provinces, Act XII of 1880 provided that it will be for the provinces to adopt in their various areas. As a matter of fact it was first adopted in Madras, then partly by Bengal. The Bengal Act, I of 1876, was adopted partly by persons in Bihar also. So it is always for us to determine and to point out the various places to which the Act should apply. What are the big and tremendous difficulties which thwart all our attempts to solve a problem of this kind? Probably the feeling is that everything should be left to the provinces and nothing can be done here.

I will just refer very shortly to the various opinions that have been received from the provinces. I mentioned two provinces—Panth Piploda and Baluchistan.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Have they not been circulated to all Members?

Qazi Muhammad Ahmad Kazmi: Yes; they have been; has the Honourable Member read them?

Sir Muhammad Yamin Khan: Yes.

Qazi Muhammad Ahmad Kazmi: May I know what is the number of opinions that have been received?

Sir Muhammad Yamin Khan: I do not want to be cross-examined. We know all that.

Qazi Muhammad Ahmad Kazmi: They know nothing.

Sir Muhammad Yamin Khan: If they do not know, they do not want to know.

Mr. Chairman (Mr. Abdul Qaiyum): I think the Honourable Member had better address the Chajr.

Qazi Muhammad Ahmad Kazmi: I am sorry. They are addressing me; that was the difficulty. From Coorg we have got only one opinion—that is in favour; from Ajmer-Merwara we have got the opinion of persons in high authority—Judicial Commissioner, District Judge, Additional District Judge and so on, and the Ulemas of Dar Ulum Mominia Ajmere. Every one of them supports the Bill. Central Provinces and Berar . . .

Maulvi Muhammad Abdul Ghani (Tirhut Division: Muhammadan): On a point of order, Sir: all the opinions are with us here; Honourable Members may or may not have seen them: that is their duty. It is presumed that the Members have gone through them—Government has given them every facility for knowing everything about the Bill. Now going through all the details covering so many pages—is it not mere waste of time? You are the custodian of the privileges of the House. In this Session and in the preceding Session the whole of the time was taken up over one Bill. This is the second Bill and all the other legislative measures pending—none of them will see the light of day. You are to protect our privileges. We have also a right to have our say. The Honourable Member in my opinion should not go on like this

Mr. Chairman (Mr. Abdul Qaiyum): Order, order, the Honourable Member attempted to make a fairly long speech and I could not find out what his actual point of order was. Will the Honourable Member please state in one sentence what his point of order is?

Maulvi Muhammad Abdul Ghani: My point of order is that the time of the House should not be wasted over unnecessary things by going
4 P. M. through all the opinions.

Mr. Chairman (Mr. Abdul Qaiyum): I do not think there is any time limit to a speech on a Bill and I hardly see any point of order in the objection raised by the Honourable Member. Mr. Kazmi may proceed.

Sir Muhammad Yamin Khan: You can draw the attention of the Honourable Member to this.

Mr. Chairman (Mr. Abdul Qaiyum): Under the rules, he cannot be stopped.

Qazi Muhammad Ahmad Kazmi: I only want to clear my position briefly. I myself have got three Bills which I am anxious to introduce. I do not want to take a single minute more than is necessary. Mr. Chairman, I have only referred very cursorily to the opinions and my learned friend took objection and said that I was reading the opinions.

Mr. Chairman (Mr. Abdul Qaiyum): The Honourable Member may proceed.

Qazi Muhammad Ahmad Kazmi: Thank you. I am only giving a summary of the opinions received from the various provinces. Otherwise how can I convince the people. I received a communication from the Muslim League Party in which they say that different conditions prevail in different provinces and my Bill is unworkable. That is why I have to refer to the provinces. So, I want to clear my position on this point and justify my action by referring to the opinions briefly.

Now, Sir, as regards the opinions from C. P. and Berar, there are 12 opinions in favour. With the exception of two all the rest are in favour. You will find it on page 14. The District and Sessions Judge of Nagpur says that registration must be for all communities.

Mr. Lalchand Navalrai: Do you agree with that?

Qazi Muhammad Ahmad Kazmi: I agree but it would not fulfil the requirements of the Muslim Community.

Mr. Lalchand Navalrai: He says 'for all'.

Qazi Muhammad Ahmad Kazmi: I have no objection to bring in a Bill for all, if you will support it. Then I come to the Commissioner of Berar on page 14. He says that the Bill will interfere with the hereditary kazis whose office is recognised by inam grants. These are the only grounds on which the Bill has been opposed so far as C. P. and Berar are concerned. It is for the House to judge whether this objection is a legitimate one. Then comes the opinion of far off Assam. If there was any province which would have differed, it would

[Qazi Muhammad Ahmad Kazmi] have been Assam. But what do we find: 'Government of Assam says: "I am directed to say that there is unanimous support for the Bill from the Muslim public and this Government support it in principle but consider that it is defective in many matters" and they point out what necessary amendments have to be made. From the N. W. F. P., we have got ten opinions in favour. The Government say: "The consensus of opinion is in favour of the Bill" and amongst the supporters of the Bill you will find the Advocate General, Judicial Commissioner, Kazi Muhammad Mir, Registrar, District and Sessions Judge, Malik Khuda Buksh and Khan Muhammad Guffar Khan and others. The Government of Sind support the Bill and suggest certain modifications. Madras says that the provisions for public recognition of marriages is to be welcomed, although the procedure should be simplified. Then out of 21 opinions received only two are against.

The Honourable Sir Sultan Ahmed (Leader of the House): Most weighty opinions in the country!

Qazi Muhammad Ahmad Kazmi: Of course, they are weighty, but what is their basis? In some cases jagirs are attached to Government Kaziships in Madras. They ask what is to happen to the present Government—Kazis and those who are enjoying jagirs now? So, they say, confusion is likely to arise. This is one of the opinions to which the Honourable the Leader of the House has referred. It is on page 21. I will draw the attention of the Leader of the House to the difficulty which the contemplates. In making the selection of Kazis, we have provided that when there are persons with equal qualifications those will have preference who have been hereditary kazis or who are respectable persons in the locality. Therefore persons who have got jagirs in Madras will be entitled to become Kazis, provided they are qualified. I do not see any reason whatever for a person, however high the authority may be from which that opinion comes, who is illiterate and incapable of performing the duties of a Kazi, to be appointed to perform the duties of Kazi simply because jagirs were granted to him by the Moghul Emperors and his enjoyment should not be disturbed by an enactment of this kind. This is the only reason on account of which opposition has come from Madras. Only two opinions are against the Bill and the rest are in favour of the Bill.

Now coming to Delhi Province, this being the Capital city where the Mughal Emperors ruled for a long time, the Muslim practices have been much more stable than at other places. One gentleman says: "So far as Delhi is concerned, I understand there are certain families of Kazis who have been doing this work for generations without any complaint." So far as that class is concerned, how is this Bill going to affect them adversely? We want to see that they continue in that position so long as they perform their duties to the satisfaction of the public.

Then, Sir, I would not bother the House with any further detailed opinions. So far as Bihar is concerned, there are more than 50 opinions, including the opinions of Judges of High Courts, of District Judges and Magistrates and furthermore of Inspectors General of Registration and members of the permanent committee for supervision of Muhammadan Registrars and Kazis of Bihar. In Bengal I have already pointed that there is Act I of 1876 and a portion of Bihar is also governed by that Act. You will be interested to find that out of four persons belonging to the permanent committee of supervision of Muhammadan Registrars and Kazis of Bihar who have given opinion on this Bill, three persons support this Bill in full. I have already dealt with Bengal. As regards Bombay, out of 90 opinions that have been received, I can only find two against the Bill and the rest are in favour of the Bill. So far as U. P. is concerned, we have got 25 opinions in favour and three are against. As regards the Punjab, 18 are in favour and eight are against. But when you read all these eight opinions, you will find that they rely on the Registration by municipal and district boards. I have thus shown to the House that so far as the Bill

is concerned, it—subject to a little variation—have got the unanimous support of the Muslim community. Sir, I have finished and my Honourable friends need not be impatient any longer. I submit I have tried my best to show to the House that the interest of the Muslim community requires this legislation to be placed on the Statute Book and I therefore move that the Bill be referred to the Select Committee.

Mr. Chairman (Mr. Abdul Qaiyum): Motion moved:

“That the Bill to provide for the appointment of persons to the office of Kazi and for performing and keeping a record of marriages amongst Muslims be referred to a Select Committee consisting of the Honourable Sir Asoka Roy, Sir George Spence, Mr. Muhammad Nauman, Maulvi Muhammad Abdul Ghani, Maulvi Syed Murtuza Sahib Bahadur, Maulana Zafar Ali Khan, Mr. Abdul Qaiyum, Khan Bahadur Sheikh Habibur Rahman, Mr. Hooseinbhooy A. Lalljee, Kunwer Hajee Ismaiel Alikhan, Mr. Govind V. Deshmukh and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Sir Muhammad Yamin Khan: Sir, I am opposed to this measure and I have given my reasons for the same which my Honourable friend Qazi Muhammad Ahmad Kazmi read out to the House. Besides the reasons given there, there are many other reasons why this Bill should not be supported. We have carefully gone into the provisions of this Bill, we find that this Bill instead of doing any good to the Muslims, will cause the greatest harm and injury to the Muslims and the Muslims will suffer a good deal if this Bill is placed on the Statute Book.

Sir, this Bill has been brought forward by a Qazi—Qazi Muhammad Ahmad Kazmi—which really means favouring everything for the Qazis and it is absolutely against the interest of the Muslims and the Muslim community. He only shows favour to a particular community or those people who still continue to call themselves hereditary Kazis. That is the word he used. Hereditary Kazis are going to be benefited by this Bill if it is made into law. Some useless people will go about begging that they should be appointed Kazis and nobody else should be appointed in their place. I will show how this Bill is going to cause the greatest injury to Muslims. The first thing is it imposes a kind of tax. The very first thing which Mr. Kazmi is anxious to bring in this Bill is the fee of Rs. 2-8-0, whether the man is capable of paying it or not. The man may not have four annas in his pocket, but yet he has got to pay Rs. 2-8-0 to the Kazi. If the Kazi is not able to go to the house of the marriage party and perform the ceremony, then the married couple should go to the Kazi's house and get the marriage registered. If they do it within 15 days of marriage, then they have to pay no fee, but if it is on the 16th day and thereafter, the married couple has got to pay Rs. 2-8-0. This imposes two kinds of penalties on the marriage party, firstly the husband and wife must travel from the village to the headquarters of the district and get their marriages registered, if through the fault of the Kazi, the Kazi himself could not be present. It does not impose any kind of penalty on the Kazi, whoever has been appointed, if he is absent from the marriage ceremony. The only thing is that his fee cannot be relaxed. If the marriage is celebrated by anybody else than the Kazi who did not happen to be present, then the married couple will have to pay Rs. 5 instead of Rs. 2-8-0. Then, Sir, if it is beyond 15 days, then the couple has to pay Rs. 10 as fees. There is something more in the present Bill, any person placing reliance or leading evidence in any civil or criminal suit in respect of marriage which is not entered in the register of the Kazi will have to pay a penalty of Rs. 15. Sir, from beginning to end my Honourable friend Qazi Muhammad Ahmad Kazmi is looking to the interests of Kazis and not to the interest of the Muslim community. My Honourable friend seems to think that by bringing forward this Bill he is just conferring some favour on Muslims; on the other hand he is imposing a penalty which penalty we refused to allow ourselves to be subjected to every time it was attempted by the Government. Here my Honourable friend comes to this House and shows his anxiety to introduce the very legislation which probably if Government had introduced, he would have been the very first person to get up and oppose it and say, no. Then who is going to

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be Kazi? I am surprised that an eminent lawyer like my Honourable friend can use words like this :

"For an appointment to the post of a Kazi a man must be educated, conscientious"—I do not know who will judge these qualities—and well versed in questions relating to marriages", etc.

I do not know what he means by "questions relating to marriages". I could understand if he had said, "the law relating to marriages", but when an eminent lawyer of his standing uses the words "questions relating to marriages" I must say I am very much surprised.

Then who will appoint these Kazis? For that he provides a funny kind of committee; the District Judge, the District Magistrate, one Muslim Vakeel, one Muslim member of the municipal board elected by the Muslim members, Members of the Central Legislature representing that district, etc. My Honourable friend belongs to Saharanpur and practices at Allahabad; if there is to be an appointment of a Kazi at Muzaffarnagar—a district which he represents—he will be called from Allahabad to give his vote. My Honourable friend Sir Zia Uddin Ahmad represents four divisions or about 16 districts; he will have no other business but to run about and give his vote for appointment of Kazis.

Then come the Ulemas, and who are they? My Honourable friend knows only one province, *vis.*, the U. P. and his only intention is to have this Bill for the U. P. only. And not being a member of the U. P. Legislature he has brought up his Bill in this House for the whole of India. The reason is that all the ulemas belong to Deoband (in the Saharanpur district which is my Honourable friend's home district), to Saharanpur, to Thana Bhawan, Moradabad, Amroha, Gulauti, Budaon, Bareilly, Cawnpore and Allahabad. These are the schools from which the ulemas must come who will vote for the appointment of a Kazi. And a Kazi to be selected must be trained in one of these Madrasahs. That is to say, a person to be appointed Kazi in Madras or Bengal or the North-West Frontier must be trained in one of these schools in the U. P.

Qazi Muhammad Ahmad Kazmi: This list is to be kept by the Provincial Governments who can frame a list according to their own needs and knowledge. This list is not exhaustive but only illustrative and is to be supplemented by provinces which bring this into force.

Sir Muhammad Yamin Khan: The Honourable Member says:

"Preference shall be given to persons who shall have obtained a certificate from any of the Islamic schools mentioned in Schedule A of this Act."

And the Schedule is exhaustive, and only men trained in these schools are to be appointed Kazis. I know there are many Muslims who did not agree that anything should be imposed on their provinces; some people may have agreed here and there, but there have been great differences of opinion in different parts of the country, and people who have given their opinion are no better than Members of this House. Members of this House represent the people and they are in full touch with the people; they say that the circumstances that prevail in different parts of the country are different and therefore the imposition of a law like this on the Mussalmans will be injurious to their interests. I do not say that marriages should not be registered; but the Bill as drafted, if it becomes law, will prove disastrous. My Honourable friend's anxiety is that when a valid marriage has been performed no one should question its validity. Now what is this valid marriage that he wants to be in the register? If a Kazi in the district has got three or four of his Naibs, every Naib is supposed to have got one register and not many registers. Supposing within the jurisdiction of every Naib there are ten marriages at a time, how are all to be put on the register at the same time? At present what happens is that the Kazi or the person who performs the marriage takes the register, the names are put down and signatures are taken there and then. If the Naib is not present at the marriage ceremony these names will never be taken down at that time. So the marriage will either have to be postponed or fixed according to the convenience of the Naib Kazi. If people want the marriage to take place at 10 o'clock

the Kazi may say that that time will not suit him and it should be solemnised at 7 o'clock the next day. So either this register will not be spared or the register will be filled in at some subsequent time. That means that it will not be authoritative if the signatures of the parties and witness are not taken at the time.

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

Therefore I think this Bill has only got a propaganda value and nothing beyond that. My Honourable friend may have been induced by some Kazis to introduce this Bill, but he knows that a large majority of Muslims are opposed to it who sincerely have the interest of the Muslims at heart. If in spite of that he persists in this Bill I think it is only for propaganda and nothing else. There are many other useful Bills which are pending and I do not propose to go into further details and take time of the House. Already the Honourable Member took nearly one hour and twenty-five minutes. I therefore finish my speech by saying that the Bill is most undesirable from beginning to end as it stands.

Mr. Abdul Qatium (North-West Frontier Province: General): Mr. President, I think I can safely begin my speech by congratulating my Honourable friend, Mr. Kazmi, on bringing forward a measure for which there is a very long-felt demand among the Mussalmans and especially among the progressive sections of the Mussalmans in India. I must also congratulate him for having taken so much pains and having spent so much of his valuable time in bringing forward a measure which is very much needed at the present time.

Sir, I painfully listened to the speech of my Honourable friend, Sir Muhammad Yamin Khan. He opposed the Bill and attacked it from different points of view. He said that the registers would not be enough to go round and that if a marriage was to be performed at 7 P.M., the register may not arrive till 9 A.M. the next morning, and he said all sorts of things which I wish he had not said. He said that the Honourable the Mover was favouring a particular school for recruiting Qazis which was either situated in his district or near his district. All sorts of objections have been made but the fact remains that there must be some sort of law in British India which would bring about the registration of marriages of the Mussalmans, as a result of which it will not be difficult to prove that a certain couple were married at a certain point of time, who were the witnesses to the marriage, who was the vakil for the marriage, what was the amount of dower fixed. If a marriage comes off well, there will be no necessity to refer to the register, but the unfortunate part of the situation is that human nature being what it is, occasions very often arise and the occasions are quite frequent when it is necessary to prove whether a particular marriage has taken place or not. I will give you an instance on the point and such instances are common: A distant collateral of a girl working under the old-fashioned ideas might be very anxious to secure the hand of a certain girl in marriage, and the girl may be an educated girl or her parents may be anxious to marry her to some one else whom they consider a more suitable match. In my part of the country, as soon as the girl is betrothed to somebody in a distant family, what happens is this. The distant collateral goes to the Police Station and reports that such and such girl is married to him and cases are at once instituted first under section 497 and 498 of the Indian Penal Code. These cases are fought from the lower court to the highest court and after so much money has been wasted then the parties resume their duel on the same issue on the civil side whether A is the lawfully wedded wife of B and therefore C had no right to marry her. In such a situation, the position of the girl becomes very tragic indeed. There have been many instances where the question as to who is the rightful husband of the woman—whether A, the man who brings in a false claim with a view to prevent the marriage of the girl or the person to whom the girl is anxious to get married or has been married. So much money is wasted and people are involved in litigation; there is bad blood created, and very often crimes follow as a result of this litigation. There are other instances also in

[Mr. Abdul Qaiyum.]

which it becomes sometimes necessary when there is a dispute between a husband and wife, to find out what the amount of dower was, and in that case people are forced to produce false witnesses in the court who come and recite the Kalima and then start telling lies—one says the dower was Rs. 10 and the other says the dower was Rs. 10,000—and it becomes impossible for the court of law to decide what is true and what is false. This is the state of affairs which prevails, and it is absolutely desirable that Muslim marriages should be registered. We must have some authority in a district. You may not call him Qazi if the word Qazi does not appeal to my Honourable friend, Sir Muhammad Yamin. By all means call him a Registrar—the name does not frighten me; I have got very clear views in the matter; I don't want to be tied down to the old institutions which are of no use in a fast-changing world;—call him a Registrar of Marriages, put him in a chair and provide him with a red-liveried chaprasi, and make him look as modern as you like, and make him look as unlike a Qazi as you please, but for God's sake do have some agency which will register the marriages of Mussalmans and which will put an end to all this ruinous and scandalous litigation which is going on in different courts of law all over India.

Sir, this very House sometime ago passed a very important measure, namely the Dissolution of Muslim Marriages Act. There were about 17 or 18 grounds on which a Muslim woman can claim a dissolution of marriage in the court of law, and instances have become very frequent where Muslim women often resort to a court of law and it is a very wholesome sometimes to get a dissolution of marriage. Sometimes the question arises—and it happens very often—whether a marriage did take place or did not take place. All sorts of complications ensue and if Muslim marriages are registered, there would be no trouble in finding out whether A and B are lawfully wedded couple, what amount of dower was agreed upon, and who were the witnesses.

There is one thing more: The other question which has been raised, is that it is no business of the Centre to legislate for the provinces on a measure of such a nature as the one which is now being discussed by the House. The first reply to such an objection is that, after all, even in a Centre, constituted as it is, even in a House where the non-Muslims outnumber the Muslims, there has been a healthy convention that all such matters are decided by the majority opinion of the Muslim Members of the House. So there is no question of any danger that any non-Muslim influences will prevail in shaping the Bill in such a way that it would be injurious to the interests of the Mussalmans. If this matter is left to the Provinces, I think that the condition of Muslims in the provinces where they happen to be in a minority will become very difficult indeed. It may not be possible for a handful of Muslim Members in a big House to take the initiative in the matter of legislation of this kind. But when you have a well-knit community with a uniform system of law, as Muslims are,—I think the Muslims can claim to be a most closely knit community in this country, rather throughout the world; they have the same system of law, they have the same ideas, they have the same social code—there could be no objection on the score that the Centre should not legislate for the provinces.

When I lend my support to this measure it is for another very very wide and cogent reason. I happen to represent a constituency which is very go-ahead in such matters. It was my province—the North-West Frontier Province—which was the first province to enforce the Muslim Personal Law, namely the Shariat, which is the law of the land and under it a Muslim daughter, a Muslim wife, a Muslim mother, a Muslim sister, can, as a matter of right, obtain a share in the property of the deceased. Now there are very few other provinces in India where such is the condition.

Sir Muhammad Yamin Khan: It has always been the Law in the United Provinces.

Mr. Abdul Qaiyum: I would like to know why, when a measure of this kind was brought before the Central Legislature, some Honourable Members

hesitated to have it made compulsory for the Muslims. The Muslim Law, as far as the Muslims are concerned, is absolutely obligatory on them to follow. I for myself cannot understand why we have a Central Act under which it is left to a Muslim to go before a District Magistrate and then declare that when he dies he should be governed by the Muslim Law. Why should we not have a law here that in the matter of succession, marriage, and all other civil matters, the Muslims shall be governed by the Muslim Law. I had to move a particular amendment to that Bill to take the Frontier Province out of the purview of that Bill. If unfortunately that Bill had passed in the form in which it had been brought then there would have been trouble in my Province, because our people are now following the Shariat, and the courts are giving their decisions according to Shariat, and if the optional clause had come in, it would have obliterated all the good effect of the Provincial Act. According to the Shariat, the position of women

Syed Ghulam Bakh Nairag (East Punjab: Muhammadan): You had your Act before that.

Mr. Abdul Qayyum: We did not have the Act before that. I can here and now categorically say that the first Act which was passed was in 1885 and before that a Muslim woman could not inherit any property. They were following custom whereby a widow could have the income of the property as long as she was a widow and there were always attempts made to marry her with a view to take over the property. Efforts were sometimes made to put her out of the way if she would not die in good time. All sorts of complications ensued as a result of that law. For the first time in 1885 the Muslims in the North-West Frontier Province, irrespective of their political differences, joined together, and they called a Shariat conference and thus forced the hands of the legislature, and a law was passed whereby all Muslims are now governed by the Muslim Personal Law, namely the Shariat.

Sir, I am representing the wishes of my people when I say that we do want some sort of law whereby marriages will be registered. But if my Honourable friend, Sir Muhammad Yamin Khan, really feels that there is a terrible objection because it should be left to the Provinces

Sir Muhammad Yamin Khan: I did not say that there is a terrible objection to the marriages being registered. I said that the Bill which is before us is hopeless in this matter.

Mr. Abdul Qayyum: I would not say that the Bill is hopeless. One of the objections which my Honourable friend had was that the Qazi would get Rs. 2-8-0. I should like to know from my Honourable friend if he would produce one single Mulla for less than Rs. 2-8-0. I know the type of Mullas who perform the nikah. Once I was briefed in a case in which I was defending a man who had been charged for an offence of enticing away a married woman. A witness was brought and he was put on oath and he said that he had performed the nikah of the two parties. My instruction was that this man did not know anything about Shariat or anything about the *khutba* of nikah; that he was only a *mal*. I suggested to the court and the court put a question and asked him to recite the *khutba* whereby he had performed the nikah. The man was dumbfounded and he walked out of the court. My Honourable friend says that Rs. 2-8-0 is a frightfully big sum. I know that Mullas are charging much more than that.

Sir Muhammad Yamin Khan: I say it becomes a tax when you fix a sum in this way. A man may give anything with his free will, but when you fix Rs. 2-8-0 he will be forced to pay.

Qazi Muhammad Ahmad Kasmi: The matter was only for a Select Committee and the imposition of fine or the amount of fee to the Qazi and all these things were matters to be considered by a Select Committee.

Mr. Abdul Qayyum: Now, I should like to know a Mulla who would really charge something less than Rs. 2-8-0.

[Mr. Abdul Qaiyum.]

Let us have a registrar who will register Muslim marriages. That is the object of this Bill. There is no doubt that there are certain provisions in the Bill which may be objected to by some people. It is not such a bad Bill as my Honourable friend Sir Muhammad Yamin Khan would like us to believe. I do hope that if he reads the Bill a second time, he would see that it is less hideous than what it appeared to him on his first reading. After all the motion is for reference to a Select Committee. If the Honourable Member and members of his Party are prepared to go to the Select Committee and if there are any objectionable clauses in the Bill they can be improved. I for one do not think that the clause dealing with the composition of the District Committee is a very happy clause. It seems to be much too complicated and involved. These are matters that can be straightened out in a select committee. And if the objection is that we are encroaching on the autonomy of the Provinces, the Provinces do not seem to be frightfully conscious of their autonomy in these days of ordinances and Defence of India Rules. I think that Provincial Autonomy has been reduced to something like a farce, and most of the powers have been taken away by the Centre. If my Honourable friend would be satisfied, we can easily add a clause that the enforcement of the Bill should be left to the Provincial Government with such modifications as may be needed in the light of local circumstances. Let us not kill such a good and wholesome measure at this stage, because the Muslim community would be deprived of the benefit of a much-needed reform. I would appeal to my Honourable friend Sir Muhammad Yamin Khan and the members of his Party to allow the Bill to go to a Select Committee—let us try to improve it. Let us also try to see that the autonomy of the Provinces, which as I said does not exist, does not suffer. Sir, I support the Bill.

The Honourable Sir Asoka Roy: Sir, I should like to make the attitude of Government in regard to this Bill clear in a very few words. An earlier identical Bill was circulated for the purpose of eliciting opinion thereon and the opinions received in regard to that Bill which, as I said was identical in terms, were in part hostile and in part favourable. I think the two opinions were almost equally balanced. In those circumstances and having regard to the active opposition of the Muslim League Party in this House, Government cannot support the reference of the Bill to a Select Committee, and must leave it to the Muslim Members of the House.

Qazi Muhammad Ahmad Kasmi: Mr. President, I have very carefully listened to the only one speech that has been delivered against the Bill, the speech by Sir Muhammad Yamin Khan.

An Honourable Member: It is the speech of the Party.

Qazi Muhammad Ahmad Kasmi: May be it is the Party's view but I do not think the Party would ascribe things which were uttered by Sir Muhammad Yamin Khan. I think that Sir Muhammad Yamin Khan has misunderstood the whole position from the very beginning.

Mr. Govind V. Deshmukh (Nagpur Division: Non-Muhammadan): Because you are a qazi: that is the trouble.

Qazi Muhammad Ahmad Kasmi: The offer that I made was that you prepare any draft that can be put before the House, that will be acceptable to me. Even today I am making this offer. This Bill is not in the interest of any particular qazi but in the interests of the Muslim community and you can join your heads together and produce a draft embodying your ideas and notions which you think will be acceptable to the Muslim community and I am prepared to withdraw this Bill. I am prepared in the Select Committee to have it altered substantially but the question is whether you have the time and intention to do that.

Mr. Muhammad Nauman (Patna and Chota Nagpur cum Orissa: Muhammadan): We oppose it in principle.

Qazi Muhammad Ahmad Kasmi: But you have not spoken so. I know that you wanted to oppose it in principle. I would have very gladly heard it and

that was what I wanted to hear. What is the principle on which they are opposing the Bill? Is it the principle enunciated by Sir Muhammad Yamin Khan, the mouthpiece,—as he thinks himself to be,—of the Muslim League Party that a fee of Rs. 2-8-0 would be too heavy and crushing a burden on the Muslim community?

Sir Muhammad Yamin Khan: It goes up to Rs. 15 penalty.

Qazi Muhammad Ahmad Kazmi: I am only ashamed to have to reply to arguments of the type which are being advanced by Sir Muhammad Yamin Khan. Does he not understand this single A. B. C. D. of the procedure of this House that this penalty can be increased, decreased or even abolished if it goes to the Select Committee. It was for this very purpose that I had put his name for the Select Committee but he said that he did not want to be on the committee. Every possible effort on my part to bring him and other gentlemen to consider this point seriously had utterly failed and it was then that I decided that whatever be the fate of the Bill I would carry it to the House. Instead of that, he had the audacity to suggest that I had kept the name of Darul-ulam Deoband or of certain institutions of Allahabad because I happened to reside there. Had he the sense to read section 10 sub-clause (a) he would have known that these are matters of detail which have to be decided not even by this Legislature but they are left to the Provincial Governments which have to add the name of the schools. This is absolute ignorance of the elementary principles shown by him in opposing this Bill. They may pretend to have some principle. But what is it?

Mr. Abdul Qaiyum: Now do not you withdraw it.

Mr. Sri Prakasa: Let not marriages result in a quarrel.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot, Non-Muhammadan Rural): As it always does!

Mr. President (The Honourable Sir Abdur Rahim): Let the Honourable Member go on.

Qazi Muhammad Ahmad Kazmi: What is the principle that my learned friend says that he has initiated against this Bill. He says because members coming from various provinces have differed on this, therefore we want to differ on it too.

Maulvi Muhammad Abdul Ghani: The Bihar people differ entirely.

Qazi Muhammad Ahmad Kazmi: You do not speak. Muhammad Yamin Khan has not given the reasons. We wanted a fair discussion of the whole proposition. It seems that you want a dictatorship and that whatever you say must be followed: unless of course you have given your views to Yamin Khan and what he says must be law. My submission is

(Interruptions)

Mr. President (The Honourable Sir Abdur Rahim): Let the Honourable Member go on.

Qazi Muhammad Ahmad Kazmi: May I just once again draw the attention of the Honourable Member to the puerile nature of the arguments advanced by him. I request him to have a look at the Bill itself and then let me know what was the principle on which he opposed it. Was it on the question of penalty, or the question of the fee of Rs. 2-8-0 or what I favoured—hereditary Kazis? If my Honourable friend had only taken the trouble of reading the opinions that we received, he would have found that the chief reason that was put in by some of the persons who opposed this Bill was that there were hereditary Kazis who were not competent enough to carry on the duties of Kazis. It was the hereditary Kazis who were opposing it. But he had not taken the trouble to find that out. The provisions of the Bill are simple enough. As I have said, I myself have tried my best to form a Committee which will be able to nominate the Kazis. Any improvements, any suggestions in that direction could be dealt with in the Select Committee. The imposition of fees of Rs. 2-8-0 and Rs. 15 can be amended any time in this House or by the Select Committee. So far as the provisions of the various *Madarrah* are concerned

[Qazi Muhammad Ahmad Kazmi]

it is a matter to be left to the Provincial Governments and if my Honourable friends are anxious they can offer their suggestions here. Even if you do not like to have persons who have no education in those schools, put in a condition that he must be a matriculate. But do not have illiterate people as Kazis. Is it in the interest of people who are illiterate and who want to have money to carry on the work of a Kazi that the Bill can be opposed? They are the only persons who can be opposed to this Bill and not persons who have got anything in the nature of a right attitude of mind.

I do not think it is necessary for me to take on any more time. I am very anxious to finish myself. I think no proper reasons have been advanced by my friends and there is no reason why this Bill should not go into the Select Committee and I would appeal to my Honourable friends to reconsider their position after the reasons they have advanced in this House whether they have made out a fit case for opposing this Bill.

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

"That the Bill to provide for the appointment of persons to the office of Kazi and for performing and keeping a record of marriages amongst Muslims be referred to a Select Committee consisting of the Honourable Sir Asoka Roy, Sir George Spence, Mr. Muhammad Nauman, Maulvi Muhammad Abdul Ghani, Maulvi Syed Murtuza Sahib Bahadur, Maulana Zafar Ali Khan, Mr. Abdul Qaiyum, Khan Bahadur Sheikh Habibur Rahman, Mr. Hooseinbhoj A. Lalljee, Kunwer Hajee Ismaiel Alikhan, Mr. Govind V. Deshmukh and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The Assembly divided:

AYES—5

- Abdul Qaiyum, Mr.
Deshmukh, Mr. Govind V.
Ghiasuddin, Mr. M.

| Kamaluddin Ahmad, Shams-ul-Ulema.
Kazmi, Qazi Muhammad Ahmad.

NOES—13

Abdul Basith Choudhury, Dewan.
Abdul Ghani, Maulvi Muhammad.
Abdullah, Mr. H. M.
Essak Sait, Mr. H. A. Sathar H.
Ismail Khan, Hajee Chowdhury Muhammad.
Liaquat Ali Khan, Nawabzada Muhammad.
Nairang, Syed Ghulam Bhik.

| Nauman, Mr. Muhammad.
Siddique Ali Khan, Nawab.
Yamin Khan, Sir Muhammad.
Yusuf Abdoola Haroon, Seth.
Zafar Ali Khan, Maulana.
Zia Uddin Ahmad, Dr. Sir.

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Friday, the 6th April, 1945.